



# Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - TEL: (510) 747-4300 - FAX: (510) 522-7848 - TDD: (510) 522-8467

## IF YOU WISH TO ADDRESS THE BOARD:

1. Please file a speaker's slip with the Executive Director, and upon recognition by the Chair, approach the rostrum and state your name; speakers are limited to 3 minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstrations are prohibited during Board of Commissioners meetings.

## **AGENDA**

## **REGULAR MEETING OF THE BOARD OF COMMISSIONERS**

### **DATE & TIME**

**Tuesday, January 4, 2005, 7:25 PM**

### **LOCATION**

City Hall, Council Chambers, Room 390, 2263 Santa Clara Ave., Alameda, CA

Welcome to the Board of Commissioners of the Housing Authority of the City of Alameda meeting. Regular Board of Commissioners meetings are held on the first Tuesday of each quarter in the Council Chambers at City Hall.

### **Public Participation**

Anyone wishing to address the Board on agenda items or business introduced by Commissioners may speak for a maximum of three minutes per agenda item when the subject is before the Board. Please file a speaker's slip with the Housing Authority Executive Director if you wish to address the Board of Commissioners.

## **PLEDGE OF ALLEGIANCE**

1. **ROLL CALL** - Board of Commissioners
2. **CONSENT CALENDAR**
  - Consent Calendar items are considered routine and will be approved or accepted by one motion unless a request for removal for discussion or explanation is received from the Board of Commissioners or a member of the public.
- 2-A. Minutes of the Special Board of Commissioner meeting held November 3, 2004. Acceptance is recommended.

- 2-B. Minutes of the Special Board of Commissioner meeting held December 7, 2004. Acceptance is recommended.

3. AGENDA

- 3-A. Audit Report for Fiscal Year Ending June 30, 2004. The Chief Executive Officer recommends acceptance of the audit report for the year ending June 30, 2004.

4. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)

5. COMMISSIONER COMMUNICATIONS, (Communications from the Commissioners)

6. ADJOURNMENT

\* \* \*

Note:

- \* Sign language interpreters will be available on request. Please contact Carol Weaver, Secretary, at 747-4325 voice or 522-8467 TDD at least 72 hours before the meeting to request an interpreter.
- \* Accessible seating for persons with disabilities (including those using wheelchairs) is available.
- \* Minutes of the meeting are available in large print.
- \* Audiotapes of the meeting are available on request.
- \* Please contact Carol Weaver at 747-4325 voice or 522-8467 TDD at least 72 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.



## CITY OF ALAMEDA • CALIFORNIA

### IF YOU WISH TO ADDRESS THE COUNCIL:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Mayor, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Council meetings.

AGENDA - - - - - REGULAR MEETING OF THE CITY COUNCIL  
TUESDAY - - - - - JANUARY 4, 2005 - - - - 7:30 P.M.

[Note: Regular Council Meeting convenes at 7:30 p.m., **City Hall, Council Chambers, corner of Santa Clara Ave and Oak St.**]

The Order of Business for City Council Meeting is as follows:

1. Roll Call
2. Agenda Changes
3. Proclamations, Special Orders of the Day and Announcements
4. Consent Calendar
5. Agenda Items
6. Oral Communications, Non-Agenda (Public Comment)
7. Council Communications (Communications from Council)
8. Adjournment

### Public Participation

Anyone wishing to address the Council on agenda items or business introduced by Councilmembers may speak for a maximum of 3 minutes per agenda item when the subject is before Council. Please file a speaker's slip with the Deputy City Clerk if you wish to address the City Council.

REGULAR MEETING OF THE HOUSING AUTHORITY BOARD 7:25 P.M.  
OF COMMISSIONERS, CITY COUNCIL CHAMBERS  
Separate Agenda

1. ROLL CALL - City Council
2. AGENDA CHANGES

3. PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

- 3-A. Presentation on the basic requirements for an Indian Tribe to operate a Casino in California.

4. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Council or a member of the public.

- 4-A. Minutes of the Special and Regular City Council Meetings held on December 21, 2004.

- 4-B. Bills for ratification.

- 4-C. Recommendation to award Contract in the amount of \$127,102.65 to Stewart & Stevenson for Ferry Vessel Reduction Gears, No. P.W. 10-04-15.

- 4-D. Recommendation to terminate the Contract with J.W. Riley & Son, Inc. for Alameda Point Multi Use Field, No. P.W. 12-02-18 and authorize project completion.

- 4-E. Recommendation to award Contract in the amount of \$45,000 to Maze and Associates for Financial Modeling Services.

- 4-F. Recommendation to accept Annual Review of the Affordable Housing Ordinance.

- 4-G. Recommendation to approve Agreement between the Alameda Unified School District and the City of Alameda for Use and Development of Real Property at the K-8 School and Park site in the Bayport Residential Development Project.

- 4-H. Recommendation to accept the Bayport Residential Interim 115Kv overhead power line improvements and authorize recording a Notice of Completion.

- 4-I. Adoption of Resolution Authorizing Open Market Purchase from Allied Sweepers, Inc., Pursuant to Section 3-15 of the Alameda City Charter, of "Green Machine" Sidewalk Cleaning Equipment. [Requires four (4) affirmative votes]

- 4-J. Adoption of Resolution Approving Parcel Map No. 8401 (2340 and 2350 North Loop Road).

- 4-K. Adoption of Resolution Reappointing T. David Edwards as Trustee of the Alameda County Mosquito Abatement District.



4-L. Introduction of Ordinance Amending the Alameda Municipal Code by Amending Subsection 3-28.9 (Payment In-Lieu of Taxes - PILOT); Adding a New Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) and Adding a New Subsection 18-4.10 (Exemptions) of Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water).

4-M. Introduction of Ordinance Amending the Alameda Municipal Code by Adding a New Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation).

5. REGULAR AGENDA ITEMS

5-A. Recommendation to reappoint Mary Rudge as Alameda's Poet Laureat.

5-B. Public Hearing to consider an Appeal of the Planning Board's denial of Major Design Review DR04-0013 and Variances V04-0005, V04-0015, V04-0016, V04-0017 to permit the construction of a rear deck and garage addition that was completed without City permits; **and adoption of related resolution.** The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south (left side) and west (rear) property lines. The garage addition is an expansion of the existing single-family dwelling up to the north (right side) and west (rear) property lines. The Applicant is requesting four (4) Variances to permit the construction of the work completed without permit including: 1) Variance to Alameda Municipal Code (AMC) Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height; 2) Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings; 3) Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards; 4) Variance to AMC Subsection 30-4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards. The site is located at 913 Oak Street within an R-4, Neighborhood Residential Zoning District. Applicant/Appellant: Fred and Ursula Hoggenboom.  
[Continued from December 7, 2004]

5-C. Discussion regarding assistance for tenants at Harbor Island Apartments.

6. ORAL COMMUNICATIONS, NON-AGENDA (Public Comment)

Any person may address the Council in regard to any matter over which the Council has jurisdiction or of which it may take cognizance, that is not on the agenda.

7. COUNCIL COMMUNICATIONS (Communications from Council)

8. ADJOURNMENT

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- For use in preparing the Official Record, speakers reading a written statement are invited to submit a copy to the City Clerk at the meeting or e-mail to: lweisige@ci.alameda.ca.us
- Sign language interpreters will be available on request. Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 72 hours prior to the Meeting to request an interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 747-4800 or TDD number 522-7538 either prior to, or at, the Council Meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- Audio Tapes of the meeting are available upon request.
- Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 48 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.

## CITY OF ALAMEDA

### Memorandum

Date: December 27, 2004

To: Honorable Mayor  
and Councilmembers

From: James M. Flint  
City Manager

Re: Regular City Council Meeting and Regular Housing Authority Board of  
Commissioners Meeting of January 4, 2004

Transmitted are the agendas and related materials for the Regular City Council Meeting and the Regular Housing Authority Board of Commissioners Meeting of January 4, 2004.

### **REGULAR MEETING OF THE HOUSING AUTHORITY BOARD OF COMMISSIONERS**

#### CONSENT CALENDAR

2-A. Minutes of the Special Board of Commissioner Meeting held November 3, 2004.

It is recommended that the City Council accept the minutes of the Special Board of Commissioner meeting held November 3, 2004.

2-B. Minutes of the Special Board of Commissioner Meeting held December 7, 2004.

It is recommended that the City Council accept the minutes of the Special Board of Commissioner meeting held December 7, 2004.

3-A. Audit Report for Fiscal Year Ending June 30, 2004.

It is recommended that the City Council accept the audit report for the year ending June 30, 2004.

### **CITY COUNCIL AGENDA**

1. ROLL CALL - City Council
2. AGENDA CHANGES

*Dedicated to Excellence, Committed to Service*

3. PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

- 3-A. Presentation on the basic requirements for an Indian Tribe to operate a Casino in California.

This presentation has been agendized at the request of the City Council. The presentation and staff report describe the basic requirements for an Indian tribe to operate a casino in California. This item is for discussion only.

CONSENT CALENDAR

- 4-A. Minutes of the Special and Regular City Council Meetings held on December 21, 2004.

The City Clerk has presented for approval the Minutes of the Special and Regular City Council Meetings held on December 21, 2004.

- 4-B. Bills for ratification.

- 4-C. Recommendation to award Contract in the amount of \$127,102.65 to Stewart & Stevenson for Ferry Vessel Reduction Gears, No. P.W. 10-04-15.

It is recommended that the City Council award the contract in the amount of \$127,102.65 to Stewart & Stevenson for ferry vessel reduction gears that will be kept as spare parts for the Peralta and the Encinal.

- 4-D. Recommendation to terminate the Contract with J.W. Riley & Son, Inc. for Alameda Point Multi Use Field, No. P.W. 12-02-18 and authorize project completion.

It is recommended that the City Council terminate the contract with J. W. Riley & Son, Inc. for the Alameda Point Multi Use Field and authorize project completion. Riley has been given repeated notices and ample opportunity to complete work, but has become non-responsive. The City has also received claims from Riley's subcontractors and suppliers alleging non-payment. Staff proposes completing the work using a different contractor. The cost of this work by the new contractor will be deducted from the payment withheld from Riley.

- 4-E. Recommendation to award Contract in the amount of \$45,000 to Maze and Associates for Financial Modeling Services.

It is recommended that the City Council award a contract to Maze & Associates in the amount of \$45,000 for financial modeling services. To the extent that the Finance Department budget does not have funding available, they will need to rely

on General Fund Reserves to provide for any costs in excess of budget that may occur.

- 4-F. Recommendation to accept Annual Review of the Affordable Housing Ordinance.

It is recommended that the City Council accept the Affordable Housing Ordinance Annual Review report in order to satisfy the Annual Review requirement in the Affordable Housing Unit/Fee Ordinance.

- 4-G. Recommendation to approve Agreement between the Alameda Unified School District and the City of Alameda for Use and Development of Real Property at the K-8 School and Park site in the Bayport Residential Development Project.

It is recommended that the City Council approve and authorized the City Manager to execute an agreement between the AUSD and the City of Alameda for use and development of real property at the new K-8 School and Park Site in the Bayport Development Project. The AUSD Board of Education approved the Joint Use Agreement at their meeting of December 14, 2004.

- 4-H. Recommendation to accept the Bayport Residential Interim 115Kv overhead power line improvements and authorize recording a Notice of Completion.

Based on the City Engineer's and AP&T's final authority to approve the improvements on behalf of the City, it is recommended that the City Council accept the Bayport Residential Interim 115Kv overhead power line improvements and direct the City Clerk to file a Notice of Completion for the improvements.

- 4-I. Adoption of Resolution Authorizing Open Market Purchase from Allied Sweepers, Inc., Pursuant to Section 3-15 of the Alameda City Charter, of "Green Machine" Sidewalk Cleaning Equipment. [Requires four (4) affirmative votes]

It is recommended that the City Council adopt a resolution authorizing open market purchase from Allied Sweepers, Inc., for the purchase of "Green Machine" street cleaning equipment to be used in the Alameda Business District.

- 4-J. Adoption of Resolution Approving Parcel Map No. 8401 (2340-2350 North Loop Road).

It is recommended that the City Council adopt a resolution approving a parcel map for 2340 and 2350 North Loop Road. This parcel consists of 3.44 acres for 15 commercial condominium units.

- 4-K. Adoption of Resolution Reappointing T. David Edwards as

Trustee to the Alameda County Mosquito Abatement District.

Adoption of this resolution reappoints T. David Edwards as Trustee to the Alameda County Mosquito Abatement District Board for a two-year term representing the City of Alameda.

- 4-L. Introduction of Ordinance Amending the Alameda Municipal Code by Amending Subsection 3-28.9 (Payment In-Lieu of Taxes - PILOT); Adding a New Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) and Adding a New Subsection 18-4.10 (Exemptions) of Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water).

Introduction of this ordinance will amend the AMC regarding sewer services charges and payments in lieu of taxes as return on investments in other enterprise funds. It is recommended that this action be reviewed after the two-year budget cycle to determine the need to continue the collection of the added funds.

- 4-M. Introduction of Ordinance Amending the Alameda Municipal Code by Adding a New Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation).

Introduction of this ordinance will enable the creation of a property-based improvement district in the West Alameda Business District.

REGULAR AGENDA ITEMS

- 5-A. Recommendation to reappoint Mary Rudge as Alameda's Poet Laureat.

It is recommended that the City Council reappoint Mary Rudge for a second term as the Alameda Poet Laureate.

- 5-B. Public Hearing to consider an Appeal of the Planning Board's denial of Major Design Review DR04-0013 and Variances V04-0005, V04-0015, V04-0016, V04-0017 to permit the construction of a rear deck and garage addition that was completed without City permits; **and adoption of related resolution.** The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south (left side) and west (rear) property lines. The garage addition is an expansion of the existing single-family dwelling up to the north (right side) and west (rear) property lines. The Applicant is requesting four (4) Variances to permit the

construction of the work completed without permit including:  
1) Variance to Alameda Municipal Code (AMC) Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height; 2) Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings; 3) Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards; 4) Variance to AMC Subsection 30-4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards. The site is located at 913 Oak Street within an R-4, Neighborhood Residential Zoning District. Applicant/Appellant: Fred and Ursula Hoggenboom.  
**[Continued from December 7, 2004]**

It is recommended that the City Council conduct a public hearing, review all pertinent testimony and information regarding unauthorized construction of an attached garage and rear deck at 913 Oak Street, and then act to uphold the Planning Board's unanimous denial of variance requests and major design review for this project by adopting the draft City Council Resolution included in the agenda packet.

5-C. Discussion regarding assistance for tenants at Harbor Island Apartments.

This item has been agendaized for discussion at the request of the City Council at their December 21, 2004 meeting. The staff report describes assistance provided to remaining tenants of Harbor Isle Apartments.



# Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - TEL: (510) 747-4300 - FAX: (510) 522-7848 - TDD: (510) 522-8467

## MINUTES

### SPECIAL MEETING OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA HELD WEDNESDAY, NOVEMBER 3, 2004

The Board of Commissioners was called to order at 7:50 p.m.

#### PLEDGE OF ALLEGIANCE

#### 1. ROLL CALL

Present: Commissioners Daysog, Gilmore, Kerr, Matarrese, Torrey and Chair Johnson.

Absent: None.

#### 2. CONSENT CALENDAR

Commissioner Kerr moved acceptance of the Consent Calendar. Commissioner Torrey seconded. Motion carried unanimously. Items accepted or adopted are indicated by an asterisk.

- \*2-A. Minutes of the Special Joint City Council, Board of Commissioner, and Community Improvement Commission meeting held May 20, 2004. Minutes were accepted.
- \*2-B. Minutes of the Special Joint Community Improvement Commission and Board of Commissioner meeting held June 15, 2004. Minutes were accepted.
- \*2-C. Minutes of the Special Joint Meeting of the City Council and Board of Commissioners held July 1, 2004. Minutes were accepted.
- \*2-D. Minutes of the Board of Commissioner Special meeting held July 6, 2004. Acceptance is recommended. Minutes were accepted.
- \*2-E. Minutes of the Special Meeting of the Board of Commissioners held July 20, 2004. Minutes were accepted.

#### 3. AGENDA

- 3-A. Proclaiming Section 8 Rental Property Owner of the Year. The Mayor proclaimed:

*"Dedicated to Excellence, Committed to Service."*

Minutes #2-A CC  
Housing Authority Board of  
Commissioners Meeting  
1-4-05



1. Yee Mee Poon Lee the Housing Authority's Rental Property Owner of the Year for the 3 or less rental units category.
2. Sue and Chuck Sweezy the Housing Authority's Rental Property Owner of the Year for the 4 or more rental units categories.

Sue and Chuck Sweezy were in attendance and accepted the Mayor's proclamation and a plaque from the Executive Director, Michael Pucci. Yee Mee Poon Lee was not in attendance. The proclamation and plaque will be mailed.

- 3-B. Approve Selection of Bond Underwriter for the Sale of Bonds for Refinancing Parrot Village, Eagle Village and China Clipper. Commissioner Daysog moved that the Board of Commissioners approve the selection of Stone & Youngberg LCC to provide the Housing Authority with bond underwriting services. Commissioner Matarrese seconded. Motion carried unanimously.

4. ORAL COMMUNICATIONS

None.

5. COMMISSIONER COMMUNICATIONS

None.

6. ADJOURNMENT

There being no further business, Chair Johnson adjourned the meeting at 7:56 p.m.

Attest:

\_\_\_\_\_  
Beverly Johnson, Chair

\_\_\_\_\_  
Michael T. Pucci  
Executive Director / Secretary



# Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - TEL: (510) 747-4300 - FAX: (510) 522-7848 - TDD: (510) 522-8467

## MINUTES

### SPECIAL MEETING OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA HELD TUESDAY, DECEMBER 7, 2004

The Board of Commissioners was called to order at 7:48 p.m.

#### PLEDGE OF ALLEGIANCE

#### 1. ROLL CALL

Present: Commissioners Daysog, Gilmore, Kerr, Matarrese, Torrey and Chair Johnson.

Absent: None.

#### 2. CONSENT CALENDAR

Commissioner Daysog moved acceptance of the Consent Calendar. Commissioner Torrey seconded. Motion carried unanimously. Items accepted or adopted are indicated by an asterisk.

- \*2-A. Authorization for the Chief Executive Officer or his designee to negotiate the purchase and sales agreement for two real estate parcels from the East Bay Municipal Utility District for the sum of \$110,800 plus closing costs and return to the Board of Commissioners for final approval. The Board of Commissioners approved the purchase and sales agreement.

#### 3. AGENDA

None.

#### 4. ORAL COMMUNICATIONS, Non-Agenda

None.

#### 5. COMMISSIONER COMMUNICATIONS

None.

#### 6. ADJOURNMENT

There being no further business, Chair Johnson adjourned the meeting at 7:50 p.m.

*"Dedicated to Excellence, Committed to Service."*

Minutes #2-B CC  
Housing Authority Board of  
Commissioners Meeting  
1-1-05

Attest:

\_\_\_\_\_  
Beverly Johnson, Chair

\_\_\_\_\_  
Michael T. Pucci  
Executive Director / Secretary



# Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - Tel: (510) 747-4300 - Fax: (510) 522-7848 - TDD: (510) 522-8467

Date: December 22, 2004

To: Honorable Chair and Members  
of the Board of Commissioners

From: James M. Flint  
Chief Executive Officer

RE: Audit Report for Fiscal Year Ending June 30, 2004

## Background:

The financial statements of the Housing Authority of the City of Alameda for the fiscal year ending June 30, 2004, were prepared in the format prescribed by the requirements of Government Accounting Standards Board Statement 34 (GASB 34).

The firm of Wallace Rowe and Associates, Certified Public Accountants, has certified the audited financial statements of the Housing Authority for the fiscal year reported above.

## Discussion:

This report submits the annual Financial Statements for the fiscal year ending June 30, 2004. The auditors, Wallace Rowe and Associates, opined that "the financial statements...present fairly, in all material respects, the financial position of the Housing Authority of the City of Alameda, California, as of June 30, 2004, and the results of its operations and the cash flow of its proprietary fund types for the year then ended in conformity with accepted accounting principles generally accepted in the United States of America."

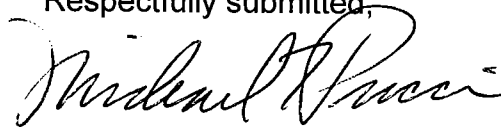
The Financial Statements provide a brief summary of all Housing Authority funds. There were no findings reported for FY2004.

Report #3-A  
Housing Authority Board of  
Commissioners Meeting  
1-4-05

Recommendation:

The Chief Executive Officer recommends acceptance of the audit report for the fiscal year ending June 30, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael T. Pucci". The signature is fluid and cursive, with a large initial "M" and a stylized "P".

Michael T. Pucci  
Executive Director

MTP:AO  
Attachment

**HOUSING AUTHORITY  
OF THE CITY OF ALAMEDA  
FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2004  
(Including Auditors' Report Thereon)**

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

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Pleasant Hill, CA 94523

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wroweassoc@aol.com

## INDEPENDENT AUDITORS' REPORT

To the Board of Commissioners  
Housing Authority of the  
City of Alameda  
Alameda, California

We have audited the financial statements of the business-type activities and each major fund of the Housing Authority of the City of Alameda, California, as of and for the year ended June 30, 2004 which collectively comprise the Authority's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Housing Authority of the City of Alameda, California, management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards (2003 Revision)*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business activities of the Housing Authority of the City of Alameda, California, as of June 30, 2004, and the respective changes in financial position and cash flow for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 21, 2004, on our consideration of the Housing Authority of the City of Alameda, California internal control over final reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.



The management's discussion and analysis on pages 3 through 10 are not a required part of the basic financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was performed for the purpose of forming an opinion on the financial statements that collectively comprise the Housing Authority of the City of Alameda, California, basic financial statements. The accompanying Schedule of Expenditures of Federal Awards, Statement of Completed Capital Fund Projects and Financial Data Schedule are presented for purposes of additional analysis as required by the U.S. Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and the U.S. Department of Housing and Urban Development, and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects, in relation to the basic financial statements taken as a whole.

*Walter E. Rowe CPA*

December 21, 2004

## MANAGEMENT DISCUSSION AND ANALYSIS

As management of the Housing Authority of the City of Alameda (AHA) we offer readers of AHA's financial statements this narrative, overview and analysis of the financial activities of AHA for the fiscal year ending June 30, 2004. We encourage readers to consider the information presented here in conjunction with AHA's financial statements as presented in this report.

The financial statements for the fiscal year 2004 are being issued in the format prescribed by the provisions of Government Accounting Standards Board Statement Number 34 (or GASB 34), which requires the Authority to provide this overview of its financial statements for the fiscal year. Please read it in conjunction with the Basic Financial Statements.

The Housing Authority of the City of Alameda provides housing assistance to low income families and individuals. The Authority's primary source of funding is from governmental grants received from the U.S. Department of Housing and Urban Development (HUD) and rent collections from its owned or administered housing units.

The following management discussion and analysis (MD&A) will discuss the results of the authority's operations. Key financial information for the current fiscal year will be compared with those of the prior year.

### A. Financial Highlights

- The two primary revenue resources of the Authority are the U.S. Department of Housing and Urban Development (HUD) grants and rents collected from its owned or administered housing units which totaled \$26,295,458 in fiscal 2004 compared to \$25,728,264 in fiscal 2003
- The assets of AHA exceeded its liabilities at the close of the most recent fiscal year by \$13,787,038 (net assets) as opposed to \$16,018,667 last year.
- As of the close of the current fiscal year, AHA's Proprietary Fund reported Unrestricted Net Assets of \$935,637 compared to 5,073,385 for the prior fiscal year. This was due to operating losses sustained in fiscal 2004, which will be discussed in further detail in section C below, and changes in the classification of certain cash assets held with trustees.
- AHA's cash and cash equivalent and investment balance at June 30, 2004 was \$2,573,948, representing a decrease of \$1,871,900 from the fiscal year 2003 balance of \$4,445,848.
- AHA's had Operating Revenues of \$26,477,315 and Operating Expenses of \$27,833,120 for the fiscal year ending June 30, 2004.
- There were no capital outlays for the fiscal year ending June 30, 2004.
- AHA's Expenditures of Federal Awards amounted to \$20,921,847

## **B. Using the Annual Report**

### Management Discussion and Analysis

Management's Discussion and Analysis are intended to serve as an introduction to AHA's financial statements. AHA's Financial Statements and Notes to the Financial Statements included in this report were prepared in accordance with GAAP applicable to governmental entities in the United States of America for Proprietary Fund types.

### Government wide Financial Statements

The government wide financial statements are designed to provide readers with a broad overview of AHA's finances in a manner similar to a private-sector business. They consist of Comparative Statements of Net Assets, Comparative Statements of Activities and Budget Comparison.

The Comparative Statements of Net Assets present information on all AHA's assets and liabilities with the difference between the two reported as net assets. Increases or decreases in net assets will serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating.

Comparative Statements of Activities present information showing how the Authority's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of unrelated cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., depreciation and earned but unused vacation leave).

The government wide financial statements report on AHA's activities. The activities are primarily supported by HUD subsidies and grants. AHA's function is to provide decent, safe and sanitary housing to low income and special needs populations. The financial statements can be found after this management discussion and analysis.

### Notes to Financial Statements

The Notes to Financial Statements provide additional information that is essential to a full understanding of the data provided in the general purpose financial statements. The Notes to Financial Statements can be found in this report after the general purpose financial statements.

### Supplemental Information

The schedule of expenditures of Federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, Audits of States, Local Governments and Non-Profit Organizations. The schedule of Federal awards can be found in the Supplemental Information section of this report.

### **C. Housing Authority of the City of Alameda as a Whole**

AHA's net assets decreased during the fiscal year as detailed below. AHA's revenues are primarily tenant rents and federal subsidies and grants received from the U. S. Department of Housing and Urban Development (HUD). AHA receives dwelling rents from low income seniors and families based on 30% of their gross income adjusted per HUD rules and regulations. AHA also receives housing assistance subsidies and administrative fees for operating the local Housing Choice Voucher program. AHA also receives subsidies each month for its owned low rent housing units. AHA's revenues were not sufficient to cover all expenses, excluding depreciation, during the fiscal year. Expenses exceeding revenues were paid out of unrestricted net assets. Due too over leasing and HUD requirements for strict per unit cost, the Housing Authority was caught in a funding shortfall. A great deal of information and public discussion has taken place over the last several months regarding the impact of these Federal requirements on the Housing Authority, tenants and landlords. The Housing Authority has subsequently taken action to mitigate the situation and correct most of the over leasing and per unit cost problems on a go forward basis.

As a result of these aforementioned Federal regulatory actions, the Housing Authority has moved reserves from Housing Authority owned program funds to the Voucher program to support shortfalls in funding. At the Housing Authority's fiscal year end this transfer amounted to \$2,479,682.

### **D. Budgetary Highlights**

For the fiscal year ended June 30, 2004, AHA-wide budgets were prepared for the agency. The budgets were primarily used as a management tool. The budgets were prepared in accordance with the accounting procedures prescribed by the applicable funding agency. The most significant budget variance relates to the factors associated with the Federal funding changes discussed above under Section C. the Housing Authority as a Whole.

The budget comparison too actual can be found just after the statement of comparative activities.

### **E. Capital Assets and Debt Administration**

#### **o Capital Assets**

As of June 30, 2004, AHA's investment in Capital Assets for its Proprietary Fund was \$26,608,859 (net of accumulated depreciation). This investment in Capital Assets includes land, buildings, equipment and construction in progress.

There were no major capital assets purchased from grants during the fiscal year. Capital asset purchases are funded by grants from HUD. However, as mentioned, there were no capital asset purchases during the fiscal year.

Additional information on AHA's Capital Assets can be found in Note 4 to the Financial Statements included in this report.

- o Long Term Debt

There was no additional long term debt added during the fiscal year. There also were no long term debt payoffs during the year. All obligations were paid up to current as of the end of the fiscal year. Please see Note 5 for a detailed breakdown of the loan balances, principal reductions during the fiscal year and the terms of the long term debt.

#### **F. Economic Factors and Next Year's Budgets and Rates**

The following factors were considered in preparing AHA's budget for Fiscal Year Ending June 30, 2005:

- o The state of the economy given high budget deficits.
- o The need for Congress to fund the war on terrorism and continued cutbacks on HUD subsidies and grants.
- o Rising health and liability insurance premiums.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**COMPARATIVE STATEMENT OF NET ASSETS**  
**JUNE 30, 2004**

	<u>Enterprise Fund</u>	
<b>Assets</b>	<u>2004</u>	<u>2003</u>
Current and Other Assets	\$ 3,956,251	\$ 5,914,098
Capital Assets	<u>26,608,859</u>	<u>7,357,873</u>
Total Assets	<u>\$ 30,565,110</u>	<u>\$ 33,271,971</u>
<b>Liabilities</b>		
Current and Other Liabilities	\$ 1,048,439	\$ 1,085,738
Long-term Liabilities	<u>15,729,633</u>	<u>16,167,566</u>
Total Liabilities	<u>16,778,072</u>	<u>17,253,304</u>
<b>Net Assets</b>		
Invested in Capital Assets, net of related debt	10,563,543	10,945,282
Restricted Net Assets	1,715,431	-
Unrestricted Net Assets	<u>1,508,064</u>	<u>5,073,385</u>
Total Net Assets	<u>\$ 13,787,038</u>	<u>\$ 16,018,667</u>

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**COMPARATIVE STATEMENT OF ACTIVITIES**  
**JUNE 30, 2004**

	<u>Enterprise Fund</u>	
	<u>2004</u>	<u>2003</u>
<b><u>Operating Revenues</u></b>		
Grants	\$ 23,420,341	\$ 22,967,145
Rents	2,875,117	2,761,119
Other	<u>181,857</u>	<u>166,285</u>
Total Revenues	<u>26,477,315</u>	<u>25,894,549</u>
<b><u>Operating expenses</u></b>		
Administration	2,491,443	2,087,023
Utilities	440,246	392,098
Tenant services	220,010	158,200
Maintenance	2,210,029	2,043,873
Protective services	170,000	-
General	191,435	951,016
Housing Assistance Payments	21,360,949	18,562,530
Depreciation	<u>749,014</u>	<u>780,887</u>
Total Expenses	<u>27,833,126</u>	<u>24,975,627</u>
Operating Income (Loss)	<u>(1,355,811)</u>	<u>918,922</u>
<b><u>Non-Operating Revenues (Expenses)</u></b>		
Donation of land	-	2,626,356
Investment income	39,982	60,183
Interest expense	<u>(915,800)</u>	<u>(968,621)</u>
Non-Operating revenue (loss)	<u>(875,818)</u>	<u>1,717,918</u>
Net Income (Loss)	(2,231,629)	2,636,840
Net Assets, Beginning of Year	<u>16,018,667</u>	<u>13,381,827</u>
Net Assets, End of Year	<u>\$ 13,787,038</u>	<u>\$ 16,018,667</u>

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**BUDGET TO ACTUAL COMPARISON**  
**JUNE 30, 2004**

	<u>2004 Budget</u>	<u>2004 Actual</u>	<u>Favorable (Unfavorable) Variance</u>
<b><u>Operating Revenues</u></b>			
Grants	\$ 22,533,054	\$ 23,420,341	\$ 887,287
Rents	2,883,986	2,875,117	(8,869)
Other	<u>331,391</u>	<u>181,857</u>	<u>(149,534)</u>
Total Revenues	<u>25,748,431</u>	<u>26,477,315</u>	<u>728,884</u>
<b><u>Operating expenses</u></b>			
Administration	2,765,859	2,491,443	274,416
Utilities	420,502	440,246	(19,744)
Tenant services	203,360	220,010	(16,650)
Maintenance	2,147,800	2,210,029	(62,229)
Protective services	170,000	170,000	-
General	145,873	191,435	(45,562)
Housing Assistance Payments	18,533,030	21,360,949	(2,827,919)
Depreciation	<u>749,014</u>	<u>749,014</u>	<u>-</u>
Total Expenses	<u>25,135,438</u>	<u>27,833,126</u>	<u>(2,697,688)</u>
Operating Income (Loss)	<u>612,993</u>	<u>(1,355,811)</u>	<u>(1,968,804)</u>
<b><u>Non-Operating Revenues (Expenses)</u></b>			
Investment income	119,131	39,982	(79,149)
Interest expense	<u>(596,226)</u>	<u>(915,800)</u>	<u>(319,574)</u>
Non-Operating revenue (loss)	<u>(477,095)</u>	<u>(875,818)</u>	<u>(398,723)</u>
Net Income (Loss)	<u>\$ 135,898</u>	<u>\$ (2,231,629)</u>	<u>\$ (2,367,527)</u>



## **G. Contacting AHA's Financial Management**

This financial report is intended to provide a general overview of the Authority's finances for all those with an interest. Questions about this report should be directed to the Finance Manager at 701, Atlantic Avenue, Alameda, California 94501.

**STATEMENT OF NET ASSETS AND  
STATEMENT OF REVENUES, EXPENSES, AND  
CHANGES IN NET ASSETS -  
PROPRIETARY FUND TYPES**

The Statement of Net Assets and Statement of Revenues, Expenses, and Changes in Net Assets - Proprietary Funds are statements required by Government Accounting Board Statement 34. Their purpose is to summarize the entire Authority's financial activities and financial position. They are prepared on the same basis as is used by most businesses, which means they include all the Authority's assets and its liabilities, as well as its revenues and expenses. This is known as the full accrual basis - the effect of all the Authority's transactions is taken into account, regardless of whether or when cash changes hands.

The Statement of Net Assets reports the difference between the Authority's total assets and the Authority's total liabilities. The statement of Net Assets presents similar information to the old balance sheet format, but presents it in a way that focuses the reader on the composition of the Authority's net assets, by subtracting total liabilities from total assets.

The Statement of Net Assets summarizes the financial position of all the Authority's Business-Type Activities.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**STATEMENT OF NET ASSETS**  
**PROPRIETARY FUNDS**  
**JUNE 30, 2004**

	<u>Enterprise Fund</u> <u>Housing</u>
<b><u>ASSETS</u></b>	
Current Assets:	
Cash and investments (Note 3)	\$ 2,573,948
Due from other governments	1,283,449
Tenant accounts receivable	31,315
Accounts receivable - other	38,490
Prepaid expenses	23,471
Inventory	<u>5,578</u>
Total current assets	<u>3,956,251</u>
Fixed Assets (note 4):	
Land	7,746,432
Structures	29,929,209
Equipment	<u>200,988</u>
	37,876,629
Less Accumulated Depreciation	<u>(11,267,770)</u>
Net fixed assets	<u>26,608,859</u>
Total assets	<u><u>\$ 30,565,110</u></u>
<b><u>LIABILITIES</u></b>	
Current Liabilities:	
Accounts payable - vendors	\$ 167,332
Accounts payable - other agencies	11,733
Tenant security deposits	308,658
Accrued liabilities	48,270
Notes payable	392,153
Accrued compensated absences	<u>120,293</u>
Total current liabilities	<u>1,048,439</u>
Noncurrent liabilities:	
Notes payable	15,653,163
Compensated absences	<u>76,470</u>
Total noncurrent liabilities	<u>15,729,633</u>
Total liabilities	<u>16,778,072</u>
<b><u>NET ASSETS</u></b>	
Invested in capital assets, net of related debt	10,563,543
Restricted	1,715,431
Unrestricted	<u>1,508,064</u>
Total fund equity	<u>13,787,038</u>
Total liabilities and fund equity	<u><u>\$ 30,565,110</u></u>

**The accompanying notes are an integral part of this statement.**

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA  
COMBINED STATEMENT OF REVENUES, EXPENSES, AND  
CHANGES IN NET ASSETS -  
PROPRIETARY FUND TYPES  
FOR THE YEAR ENDED JUNE 30, 2004**

	<u>Enterprise Fund</u> <u>Housing</u>
<u>Operating Revenues</u>	
Grants	\$ 23,420,341
Rents	2,875,117
Other	<u>181,857</u>
Total revenues	<u>26,477,315</u>
<u>Operating Expenses</u>	
Administration	2,491,443
Utilities	440,246
Tenant services	220,010
Maintenance	2,210,029
Protective services	170,000
General	191,435
Housing assistance payments	21,360,949
Depreciation	<u>749,014</u>
Total expenditures	<u>27,833,126</u>
Operating income (loss)	<u>(1,355,811)</u>
<u>Non-Operating Revenues (Expenses)</u>	
Investment income	39,982
Interest expense	<u>(915,800)</u>
Net non-operating revenue (expenses)	<u>(875,818)</u>
Net income	(2,231,629)
Total net assets, beginning	<u>16,018,667</u>
Total net assets, ending	<u>\$ 13,787,038</u>

**The accompanying notes are an integral part of this statement.**

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA  
COMBINED STATEMENT OF CASH FLOWS -  
PROPRIETARY FUND TYPES  
FOR THE YEAR ENDED JUNE 30, 2004**

	<u>Enterprise Fund</u> <u>Housing</u>
<u>Cash flows from operating activities:</u>	
Cash received from grants	\$ 23,390,776
Cash received from rents	2,862,504
Other cash receipts	321,068
Cash paid to employees	(2,513,122)
Cash payments to suppliers	(2,110,990)
Cash payments to landlords	(21,360,949)
Net cash provided (used) in operating activities	<u>(589,287)</u>
<u>Cash flows from capital and related financing activities:</u>	
Mortgage principal payments	(367,275)
Mortgage interest payments	(955,320)
Net cash (used) by capital and related financing activities	<u>(1,322,595)</u>
<u>Cash flows from investing activities:</u>	
Interest received	<u>39,982</u>
Net cash provided by investing activities	<u>39,982</u>
Net increase (decrease) in cash	(1,871,900)
Cash at beginning of year	4,445,848
Cash at end of year	<u>\$ 2,573,948</u>
<u>Reconciliation of operating income (loss) to net cash</u>	
<u>provided (used) by operating activities:</u>	
Operating income (loss)	\$ (1,355,811)
Adjustments to reconcile operating income (loss) to	
net cash provided (used) by operating activities:	
Depreciation	749,014
Changes in assets and liabilities:	
Decrease in accounts receivable	139,211
Increase in due from other governments	(41,298)
Increase in tenants accounts receivable	(12,613)
Increase in prepaid expenses	(1,837)
Decrease in inventories	2,484
Increase in accounts payable	134,294
Increase in accounts payable other agencies	11,733
Increase in tenants security deposits payable	52,011
Decrease in other accrued liabilities	(323,929)
Increase in compensated absences	57,454
Net cash provided by operating activities	<u>\$ (589,287)</u>

**The accompanying notes are an integral part of this statement.**

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO THE BASIC FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 1 - DEFINITION OF REPORTING ENTITY**

The Housing Authority of the City of Alameda (the Authority) was established on August 8, 1940, by a resolution of the City of Alameda City Council. The Authority is governed by a six member Board of Commissioners. Five of these members are also members of the City Council of the City of Alameda and one member is a resident in one of the Authority's complexes. The Board retains authority over the budget but has delegated authority for most other policy decisions to the seven member Housing Commission. The City Council appoints the members of the Housing Commission who serve for either two or four year terms.

During the year ended June 30, 2004, the Authority did not exercise oversight responsibility over any other organizations. The financial statements present information for the activities of only that portion of funds and account groups of the Housing Authority of the City of Alameda. These financial statements do not present information of any other component unit or department of the City of Alameda.

**Note 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**A. Basis of Presentation**

The accompanying financial statements are presented on the basis set forth in Government Accounting Standards Board Statement 34, *Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments*. GASB 34 requires that the financial statements described below be presented.

**Government-wide Statements:** The Statement of Net Assets and Statement of Activities display information about the primary government (the Authority). These statements include the financial activities of the overall Authority. These statements distinguish between the *governmental and business-type activities* of the Authority. Business-type activities are financed in whole or in part by fees charged to external parties. There were no governmental type activities for the Authority for fiscal year 2004.

The Statement of Activities presents a comparison between direct expenses and program revenues for each segment of the business-type activities of the Authority and for each function of the Authority's governmental activities (if such activities were to exist). Direct expenses are those that are specifically associated with a program or function and, are clearly identifiable to a particular function. Program revenues include grants and contributions that are restricted to the operations of a particular program. Revenues that are not classified as program revenues are presented as general revenues.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 2 (continued)**

**Fund Financial Statements:** The fund financial statements provide information about the Authority's funds. The emphasis of fund financial statements is on major individual governmental funds, each of which is displayed in a separate column. There are no governmental fund types for this Authority.

**B. Basis of Accounting**

The government-wide financial statements are reported using the *economic resources measurement focus* and the *full accrual basis* of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when related cash flows take place.

As explained in Note 6 for the fiscal year ended June 30, 2002 and for all previous fiscal years the Authority presented its financial activities as Governmental Fund Types on the modified accrual basis of accounting. In order too more fully comply with guidance issued by the U.S. Department of Housing and Urban Development (HUD) effective July 1, 2003 the Authority made a change in accounting principle and begin reflecting its financial activities as an Enterprise Special District and converted to the full accrual basis of accounting.

Revenue from grants and donations are recognized in the fiscal year in which all eligibility requirements have been satisfied.

**C. Budgeting Procedures**

The Authority participates in the budgetary process of the City of Alameda, California. During March of each year, the Executive Director of the Authority must submit estimates of available financing and financing requirements for the Authority to the Authority's Chief Executive officer. The Chief Executive Officer makes any necessary revisions and submits the budget to the Board of Commissioners for approval.

Subsequent revisions to the budget are made in the form of either supplemental appropriations or transfers between budget categories. The Board of Commissioners approves all significant budgetary revisions.

**D. Encumbrances**

Encumbrance accounting is not employed by the Authority.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 2 (continued)**

**E. Grant Restrictions**

The Authority has received grants from the U.S. Department of Housing and Urban Development that provide for community development activities and assistance to individuals.

**F. Fixed Assets**

Fixed assets are valued at historical cost. Contributed general fixed assets are recorded at fair market value at the time received. Interest expense incurred during the development period is capitalized.

Fixed assets include all land and site improvements thereon; all dwelling and nondwelling structures, including fixtures permanently attached thereto or installed in a fixed position; and all items of nonexpendable equipment acquired and held for the projects. It also includes items of expendable equipment paid for from funds provided for the development of the projects.

Maintenance, minor repairs and replacements are recorded as expenses; extraordinary replacements of property resulting in property betterments are charged to the property accounts.

Depreciation is charged to operations using the straight-line method based on the estimated useful life of the related asset. The estimated useful lives of the various asset categories are as follows:

Buildings and improvements	40 years
Equipment and vehicles	5 years

**G. Receivables**

All receivables are reported at their gross value.

**H. Income Taxes**

The Authority is exempt from Federal Income and California Franchise Taxes.



**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 2 (continued)**

**I. Inventories**

Inventory is valued at the lower of cost or market on a first-in, first-out basis. Inventory consists of expendable maintenance supplies held for consumption. The purchase method is used to account for inventories. Under the purchase method, inventories are recorded as expenditures when purchased; however, material amounts of inventories on hand at the fiscal year end are reported as assets.

**J. Employee Leave Benefits**

Regular full-time employees earn from 10 to 25 vacation days per year, depending upon their length of employment. Each employee also earns 12 sick leave days per year. Unused annual leave may be accumulated not to exceed 10 days in addition to that accrued in the current calendar year. Unused sick leave will be allowed to accumulate. An employee terminating employment shall be paid for any accumulated annual leave at their current hourly rate of pay. Employees terminating employment receive no compensation for unused sick leave.

**K. Grant Restrictions**

The Authority has received loans and grants from the U.S. Department of Housing and Urban Development to build and improve housing projects. The grants require that only individuals and families that meet various income, age and employment standards be housed or aided.

**Note 3 - CASH AND INVESTMENTS**

Cash and investments at June 30, 2004 consisted of the following:

Cash and investments	\$ 1,447,713
Investments with trustees	<u>1,126,235</u>
Total	<u>\$ 2,573,948</u>

The \$1,447,713 of cash and investments reflects an overdraft of \$24,980 maintained on deposit in banks and \$1,472,693 deposited in the State of California Local Agency Investment Fund (LAIF). Of the amounts deposited into banks, \$100,000 is covered by federal deposit insurance. The remaining \$240,492 is required by California law to be collateralized by governmental securities with a market value of 110% of the deposit or with first trust deed mortgages with a value of 150% of the uninsured amount.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 3 (continued)**

The \$1,126,235 of investments with trustees reflects amounts held by trust departments of various Authority lending agencies. These amounts will be used for future rehabilitation and operating costs of the Authority's multifamily projects. Investments are carried at fair value.

Cash and cash equivalents are considered to be liquid assets for purposes of measuring cash flows.

The deposits and investments are classified by investment risk as prescribed by generally accepted accounting principles as follows:

Category 1 - Deposits which are insured by Federal Deposit Insurance.

Category 2 - Deposits which are collateralized.

Category 3 - Deposits which are uninsured or uncollateralized.

Investments maintained in the Local Agency Investment Fund and with the trustee agents are not categorized by level of risk because they are not evidenced by specific identifiable securities.

The following is a summary of the Authority's cash deposits at June 30, 2004:

	Carrying Amounts	Bank Balance Before Reconciling Items	Bank Balance Insured (Category 1)	Bank Balance Collateralized (Category 2)
Cash in bank	<u>\$ (24,980)</u>	<u>\$ 340,492</u>	<u>\$ 100,000</u>	<u>\$ 240,492</u>

**Note 4 - FIXED ASSETS**

The following is a summary of the Authority's changes in fixed assets for the fiscal year ended June 30, 2004:

	Balance 7/1/03	Additions	Deletions	Balance 6/30/04
Land	\$ 7,746,432	\$ -	\$ -	\$ 7,746,432
Buildings & Improvements	29,929,209	-	-	29,929,209
Equipment	200,988	-	-	200,988
	<u>\$ 37,876,629</u>	<u>\$ -</u>	<u>\$ -</u>	<u>37,876,629</u>
Less accumulated Depreciation				<u>(11,267,770)</u>
Fixed assets, net				<u>\$ 26,608,859</u>

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 5 - LONG-TERM DEBT**

Following is a summary changes in long-term debt for the year ended June 30, 2004:

	Balance 7/1/03	Additions	Deletions	Balance 6/30/04
Washington Mutual Bank	\$ 2,263,090	\$ -	\$ 126,743	\$ 2,136,347
Reilly Mortgage	1,928,094	-	63,010	1,865,084
Midland Loan Services	9,590,861	-	150,040	9,440,821
Notes Payable - City of Alameda	1,088,600	-	-	1,088,600
Notes Payable - Other	1,541,947	-	27,483	1,514,464
Compensated Absences (Note 6)	139,309	57,454	-	196,763
	<u>\$ 16,551,901</u>	<u>\$ 57,454</u>	<u>\$ 367,276</u>	<u>\$16,242,079</u>

The following is a schedule of debt payment requirements to maturity for long-term obligations other than compensated absences:

Year Ending June 30	Principal	Interest	Total Required Payments
2005	\$ 392,153	\$ 890,923	\$ 1,283,076
2006	418,797	864,279	1,283,076
2007	447,312	835,763	1,283,075
2008	479,020	805,241	1,284,261
2009	511,732	772,565	1,284,297
2010-2014	3,136,325	3,285,657	6,421,982
2015-2019	2,649,672	2,342,895	4,992,567
2020-2024	2,716,442	1,563,529	4,279,971
2025-2028	3,141,233	770,608	3,911,841
2030-2034	1,172,246	54,129	1,226,375
2035-2039	49,406	-	49,406
2040-2044	44,810	-	44,810
2045-2049	38,443	-	38,443
2050-2054	29,974	-	29,974
2055-2059	817,751	1,981,505	2,799,256
	<u>\$ 16,045,316</u>	<u>\$ 14,167,094</u>	<u>\$ 30,212,410</u>

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 5 (continued)**

The deed of trust note of \$1,865,04 for the Parrot Village accrues interest at 6.125% and requires annual payments of \$179,356. The deed of trust note of \$2,136,347 for the Eagle Avenue Apartments accrues interest at 8.15% and requires annual payments of \$306,520. The deed of trust note of \$9,440,821 for the Independence Plaza Apartments accrues interest at 5.57% and requires annual payments of \$680,460.

Four other notes are secured by deeds of trust on six properties located throughout the city of Alameda. These notes were issued during the fiscal years ended June 30, 1997 and June 30, 2004. These notes have a balance owing of \$1,514,464 as of June 30, 2004. The notes have interest rates ranging from 5.05% to 6.72% per annum and require annual payments of \$116,742.

Issued during the fiscal year ended June 30, 1997 were two deferred loans from the City of Alameda. These loans were issued for \$518,600 and carry no interest rate. They are secured by deeds of trust on nine properties located in Alameda, California. One of the notes is deferred until January 1, 2007, while the other is deferred until January 1, 2027. Varying semiannual payments are due on each loan from the deferral date through December 31, 2005.

A promissory note agreement for \$570,000 was entered into with the City of Alameda on June 18, 1998. This note bears interest at 3% per annum. Both interest and principal payments on this loan are deferred until the note's due date of June 30, 2057.

The mortgage note payable to Washington Mutual was entered into on September 1, 1983. It is payable in monthly installments of \$25,543, including principal and interest at 8.15%. Final payment is due on August 1, 2023.

The mortgage note payable to Midland Loan Services, Inc. was entered into on August 25, 1998. It is payable in monthly installments of \$56,705, including principal and interest at 5.57%. Final payment is due February 1, 2031.

The mortgage note payable to Reilly Mortgage Associates, L.P. was entered into on January 1, 1981. It is payable in monthly installments of \$14,946, including principal and interest at 6.125%. Final payment is due on September 1, 2020.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 6 - COMPENSATED ABSENCES**

It is the Authority's policy to permit employees to accumulate earned but unused vacation leave up to a maximum of 10 days. This leave will be used in future periods or paid to employees upon separation from the Authority. Accrued vacation leave has been valued by the Authority and has been recorded at \$196,763 as of June 30, 2004.

It is the Authority's policy to permit employees to accumulate earned but unused sick leave, however, the value of unused sick leave is not payable to employees upon separation from the Authority. The cost of vacation is recognized when payments are made to the employees.

**Note 7 - OPERATING LEASE**

The Authority on March 14, 2003 entered into a lease agreement with the Resources for Community Development (RCD) to lease land to RCD until March 14, 2078. Total rental income for the year ended June 30, 2004 under the lease agreement was \$1.

At June 30, 2004, the future rental income required under the lease for the land is as follows:

Fiscal Year Ending	
2005	\$ 1
2006	1
2007	1
2008	1
2009	1
Thereafter	68
	<u>\$ 73</u>

**Note 9 - EMPLOYEES RETIREMENT PLAN**

On July 1, 2000, the employees of the Housing Authority of the City of Alameda officially became employees of the City of Alameda. The individuals continue to work at the Authority as contracted staff. Upon becoming employees of the City of Alameda these employees became entitled to the benefits offered all other employees of the City, including participation in the City's employees' retirement plan. On July 1, 2003 the Board of Commissioners approved the merger of the Authority's previous pension plan with the existing plan of the City of Alameda. This merger became retroactive to July 1, 2000, the date the employees of the Housing Authority became employees of the City of Alameda. The information pertaining to the retirement plan for staff at the Housing Authority of the City of Alameda is included in the financial report for the City of Alameda.

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2004**

**Note 10 - JOINT POWERS AGREEMENTS**

Workers' Compensation Insurance

The Authority participates in a joint venture under a joint powers agreement (JPA) with the California Housing Workers' Compensation Authority (CHWCA). CHWCA was formed to provide workers' compensation insurance coverage for member housing authorities. As of December 31, 2003, there were 31 members. The relationship between the Authority and CHWCA is such that CHWCA is not a component unit of the Authority for financial reporting purposes.

Condensed audited financial information for the year ended December 31, 2003, is as follows:

Total assets	\$ 13,256,694
Total liabilities	<u>(11,880,011)</u>
Total net assets	<u>\$ (1,376,683)</u>
Total revenues	\$ 7,659,435
Total expenses	<u>(4,221,997)</u>
Net increase in retained earnings	<u>\$ (3,437,438)</u>

CHWCA had no long-term debt outstanding at December 31, 2003. The Authority's share of year ended assets, liabilities, or retained earnings has not been calculated. The Authority contributed \$176,572 to CHWCA during the fiscal year.

Property and Liability Insurance

The Authority participates in a joint venture under a joint powers agreement (JPA) with the Housing Authorities Risk Retention Pool (HARRP). HARRP was formed to provide property and liability insurance coverage for member housing authorities. At December 31, 2003 there were 92 members. The relationship between the Authority and HARRP is such that HARRP is not a component unit of the Authority for financial reporting purposes.

Condensed audited financial information for the year ended December 31, 2003 is as follows:

Total assets	\$ 22,090,110
Total liabilities	<u>(5,137,955)</u>
Total net assets	<u>\$ 16,952,155</u>
Total revenues	\$ 4,432,843
Total expenses	<u>(4,095,371)</u>
Net increase in retained earnings	<u>\$ 337,472</u>

HARRP had no long-term debt outstanding at December 31, 2003. The Authority's share of year end assets, liabilities, or retained earnings has not been calculated. The Authority contributed \$68,504 to HARRP during the fiscal year.

## **SUPPLEMENTAL INFORMATION**

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA  
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS  
FOR THE YEAR ENDED JUNE 30, 2004**

<u>Federal Grantor</u>	<u>CFDA Number</u>	<u>Expenditures</u>
Department of Housing and <u>Urban Development (HUD)</u>		
Direct Programs:		
Public and Indian Housing	14.850	\$ 67,468
Rent Supplements/Lower Income Families	14.119	169,041
Section 8 Housing Choice Vouchers	14.871	20,025,876 *
N/C S/R Section 8 Programs	14.182	421,233
Public Housing Capital Fund	14.872	<u>238,229</u>
Total direct programs		<u>\$ 20,921,847</u>

\* Major Federal Program

This schedule was prepared on the accrual basis of accounting.

**The accompanying Independent Auditors' Report and notes are an integral part of this statement.**



**HOUSING AUTHORITY OF THE CITY OF ALAMEDA  
STATEMENT OF COMPLETED CAPITAL FUND PROGRAM  
JUNE 30, 2004**

**Capital Fund Project No. CA39P062501-03**

Grant funds approved	\$ 198,641
Grant funds received from HUD	<u>198,641</u>

Grant funds receivable	<u><u>\$ -</u></u>
------------------------	--------------------

Grant funds expended	\$ 198,641
Grant funds received from HUD	<u>198,641</u>

Unexpended grant funds	<u><u>\$ -</u></u>
------------------------	--------------------

**The accompanying Independent Auditors' Report and notes are an integral part of this statement.**

430 Verbena Court  
Pleasant Hill, CA 94523

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Fax (925) 229-1952  
wroweassoc@aol.com

**REPORT ON COMPLIANCE AND ON INTERNAL CONTROL  
OVER FINANCIAL REPORTING  
BASED ON AN AUDIT OF BASIC  
FINANCIAL STATEMENTS PERFORMED IN  
ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Board of Commissioners  
Housing Authority of the  
City of Alameda  
Alameda, California

We have audited the financial statements of the business-type activities of the Housing Authority of the City of Alameda, California, as of and for the year ended June 30, 2004, which collectively comprise the Housing Authority of the City of Alameda, California's basic financial statements and have issued our report thereon dated December 21, 2004. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that is required to be reported under *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Housing Authority of the City of Alameda's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level of risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

This report is intended solely for the information and use of the Board of Commissioners, management and federal awarding agencies and is not intended to be and should not be used by anyone other than these specified parties.

*Wallace E. Rowy, CPA*

December 21, 2004

430 Verbena Court  
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**REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO  
EACH MAJOR PROGRAM AND INTERNAL CONTROL OVER COMPLIANCE  
REQUIRED BY OMB CIRCULAR A-133**

To the Board of Commissioners  
Housing Authority of the  
City of Alameda  
Alameda, California

Compliance

We have audited the compliance of the Housing Authority of the City of Alameda, California with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 *Compliance Supplement* that is applicable to each of its major federal programs for the year ended June 30, 2004. Housing Authority of the City of Alameda, California's major programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs are the responsibility of the Housing Authority of the City of Alameda's management. Our responsibility is to express an opinion on the Housing Authority of the City of Alameda, California's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Housing Authority of the City of Alameda, California's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the Housing Authority of the City of Alameda, California's compliance with those requirements.

In our opinion, the Housing Authority of the City of Alameda, California complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended June 30, 2004.

## Internal Control Over Compliance

The management of the Housing Authority of the City of Alameda, California is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the Housing Authority of the City of Alameda, California's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with applicable requirements of laws, regulations, contracts and grants that would be material in relation to a major federal program being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over compliance and its operation that we consider a material weakness.

This report is intended solely for the information and the use of the Board of Commissioners, management, and federal awarding agencies and is not intended to be and should not be used by anyone other than these specified parties.

*Wallace E. Rowe, CPA*

December 21, 2004

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA  
STATUS OF PRIOR AUDIT FINDINGS  
JUNE 30, 2004**

The previous audit report for the year ended June 30, 2003, contained no audit findings

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA  
REPORT ON FINDINGS AND QUESTIONED COSTS  
JUNE 30, 2004**

**Section I - Summary of Auditors' Results**

**Financial Statements**

Type of auditors' report issued:	unqualified
Internal control over financial reporting:	
Material weaknesses identified?	no
Reportable conditions identified not considered material weaknesses?	no
Noncompliance material to financial statements?	no

**Federal Awards**

Internal control over major programs:	
Material weaknesses identified?	no
Reportable conditions identified not considered material weaknesses?	No
Type of auditors' report issued on compliance for major programs:	unqualified
Any audit findings disclosed that are required to be reported in accordance with A-133, Section .510(a)?	no
Identification of major programs:	
Section 8 Housing Choice Vouchers	14.871
Dollar threshold to distinguish between Type A and Type B programs	\$ 627,655
Auditee qualified as low risk auditee?	no
<b>Section II - Financial Statement Findings</b>	no
<b>Section III - Federal Award Findings</b>	no

Line Item No.	Account Description	Rent Supplementals_Housing for Lower Income Families	N/C S/R Section 8 Programs	Low Rent Public Housing	Housing Choice Vouchers	Public Housing Capital Fund Program	State/Local	Total	Line Item No.	Account Description	Rent Supplementals_Housing for Lower Income Families	N/C S/R Section 8 Programs	Low Rent Public Housing	Housing Choice Vouchers	Public Housing Capital Fund Program	State/Local	Total
111	Cash - Unrestricted	\$50,381	\$87,101	\$376,486	\$28,731	\$0	\$178,168	\$718,867	311	Bank Overdraft	\$0	\$0	\$0	\$0	\$0	\$179,094	\$719,094
112	Modernization and Development	\$0	\$932,160	\$0	\$0	\$0	\$717,119	\$1,649,279	312	Accounts Payable <= 90 Days	\$1,556	\$39,428	\$27,914	\$35,965	\$0	\$62,468	\$167,332
113	Cash - Other Restricted	\$0	\$62,791	\$0	\$0	\$0	\$13,447	\$76,238	322	Accrued Compensated Absences - Current Portion	\$0	\$29,471	\$15,276	\$45,832	\$0	\$29,714	\$120,293
114	Cash - Tenant Security Deposits	\$0	\$143,979	\$37,447	\$0	\$0	\$127,232	\$308,658	331	Accounts Payable - HUD PHA Programs	\$10,253	\$0	\$0	\$0	\$0	\$10,253	\$318,911
100	Total Cash	\$50,381	\$1,226,031	\$413,933	\$28,731	\$0	\$1,035,966	\$2,753,042	333	Accounts Payable - Other Government	\$0	\$0	\$0	\$0	\$0	\$0	\$10,253
122	Accounts Receivable - HUD Other Projects	\$0	\$0	\$0	\$0	\$0	\$0	\$1,185,869	341	Tenant Security Deposits	\$0	\$143,979	\$37,447	\$0	\$0	\$1,480	\$1,480
124	Accounts Receivable - Other Government	\$0	\$924	\$0	\$1,185,869	\$0	\$0	\$1,186,869	342	Deferred Revenues	\$0	\$28,757	\$8,613	\$0	\$0	\$127,232	\$308,658
125	Accounts Receivable - Miscellaneous	\$0	\$0	\$0	\$10,011	\$0	\$86,645	\$97,560	343	Term Debt - Capital Projects/Mortgage Revenue	\$0	\$225,498	\$0	\$0	\$0	\$10,900	\$48,270
126	Accounts Receivable - Tenants - Dwelling Rents	\$0	\$9,277	\$11,364	\$0	\$0	\$54,762	\$80,059	347	Interprogram Due To	\$0	\$81,097	\$0	\$2,479,692	\$0	\$0	\$2,560,789
126.1	Allowance for Doubtful Accounts - Dwelling Rents	\$0	\$0	\$0	\$0	\$0	\$0	\$31,315	310	Total Current Liabilities	\$11,809	\$548,230	\$89,250	\$2,740,583	\$0	\$388,364	\$3,778,236
126.2	Allowance for Doubtful Accounts - Other	\$0	\$0	\$0	\$0	\$0	(\$27,186)	(\$27,186)									
128	Fraud Recovery	\$0	\$0	\$0	\$211,129	\$0	\$0	\$211,129	351	Current - Capital Projects/Mortgage Revenue	\$0	\$11,080,408	\$0	\$0	\$0	\$4,572,755	\$15,653,163
128.1	Allowance for Doubtful Accounts - Fraud	\$0	\$0	\$0	(\$211,129)	\$0	\$0	(\$211,129)	354	Accrued Compensated Absences - Non Current	\$0	\$18,735	\$9,711	\$29,135	\$0	\$18,889	\$76,470
129	Accrued Interest Receivable	\$0	\$894	\$1,291	\$102	\$0	\$3,330	\$5,617	353	Noncurrent Liabilities - Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0
120	allowances for doubtful accounts	\$0	\$11,095	\$12,655	\$1,201,279	\$0	\$128,225	\$1,353,254	350	Total Noncurrent Liabilities	\$0	\$11,099,143	\$9,711	\$29,135	\$0	\$4,601,730	\$15,739,719
142	Prepaid Expenses and Other Assets	\$0	\$983	\$7,864	\$5,955	\$0	\$8,769	\$23,471	300	Total Liabilities	\$11,809	\$11,647,373	\$98,961	\$2,769,718	\$0	\$4,990,094	\$19,517,955
143	Inventories	\$0	\$0	\$0	\$0	\$0	\$5,578	\$5,578									
143.1	Allowance for Obsolete Inventories	\$0	\$0	\$0	\$0	\$0	\$0	\$0	508	Total Contributed Capital	\$0	\$0	\$0	\$0	\$0	\$0	\$0
144	Interprogram Due From	\$0	\$0	\$402,672	\$0	\$0	\$2,158,117	\$2,560,789									
150	Total Current Assets	\$50,381	\$1,238,009	\$837,124	\$1,233,965	\$0	\$3,336,655	\$6,696,134	508.1	Invested in Capital Assets, Net of Related Debt	\$0	\$534,949	\$5,950,416	\$8,754	\$0	\$4,069,424	\$10,563,543
									511	Total Reserved Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$0
161	Land	\$0	\$2,363,925	\$791,100	\$0	\$0	\$4,591,408	\$7,746,433									
162	Buildings	\$0	\$14,639,611	\$8,044,871	\$0	\$0	\$7,244,726	\$29,929,208	511.1	Restricted Net Assets	\$0	\$994,951	\$0	\$0	\$0	\$720,480	\$1,715,431
163	Furniture, Equipment & Machinery - Dwellings	\$0	\$77,112	\$29,293	\$0	\$0	\$51,941	\$158,346	512.1	Unrestricted Net Assets	\$38,572	(\$98,409)	\$738,163	(\$1,535,753)	\$0	\$2,365,491	\$1,508,064



Line Item No.	Account Description	Rent Supplement s_Rental Housing for Lower Income Families	N/C S/R Section 8 Programs	Low Rent Public Housing	Housing Choice Vouchers	Public Housing Capital Fund Program	State/Local	Total	Line Item No.	Account Description	Rent Supplement s_Rental Housing for Lower Income Families	N/C S/R Section 8 Programs	Low Rent Public Housing	Housing Choice Vouchers	Public Housing Capital Fund Program	State/Local	Total
703	Net Tenant Rental Revenue	\$0	\$1,441,833	\$554,172	\$0	\$0	\$879,112	\$2,875,117	943	Ordinary Maintenance and Operations - Contract Costs	\$0	\$310,375	\$89,133	\$7,579	\$121,157	\$285,038	\$813,282
704	Tenant Revenue - Other	\$0	\$5,625	\$11,433	\$0	\$0	\$3,246	\$20,304	945	Contributions - Ordinary Maintenance	\$0	\$83,125	\$41,788	\$3,160	\$0	\$86,032	\$214,105
705	Total Tenant Revenue	\$0	\$1,447,458	\$565,605	\$0	\$0	\$882,358	\$2,895,421	952	Contract Costs	\$0	\$41,484	\$0	\$18,020	\$86,356	\$44,140	\$170,000
706	HUD PHA Operating Grants	\$169,041	\$421,233	\$67,468	\$20,025,876	\$238,229	\$0	\$20,921,847	961	Insurance Premiums	\$0	\$76,296	\$4,435	\$4,055	\$0	\$4,852	\$89,638
708	Other Government Grants	\$0	\$416,151	\$0	\$0	\$0	\$2,082,343	\$2,498,494	962	Other General Expenses	\$0	\$0	\$0	\$80,114	\$0	\$20,604	\$100,718
711	Unrestricted	\$0	\$566	\$5,437	\$1,075	\$0	\$25,468	\$32,546	964	Bad Debt - Tenant Rents	\$0	\$776	\$1,881	\$0	\$0	\$4,618	\$7,275
714	Fraud Recovery	\$0	\$0	\$0	\$14,037	\$0	\$0	\$14,037	967	Interest Expense	\$0	\$646,765	\$0	\$0	\$0	\$289,035	\$915,800
715	Other Revenue	\$0	\$12,280	\$22,973	\$24,576	\$0	\$87,687	\$147,516	969	Total Operating Expenses	\$0	\$2,187,998	\$636,246	\$1,541,208	\$238,229	\$1,760,528	\$8,364,210
720	Investment Income - Restricted	\$0	\$5,936	\$0	\$0	\$0	\$2,000	\$7,436	970	Excess Operating Revenue over Operating Expenses	\$169,041	\$115,126	\$25,237	\$18,524,355	\$0	\$1,319,328	\$20,153,087
700	Total Revenue	\$169,041	\$2,303,124	\$661,483	\$20,065,954	\$238,229	\$3,079,856	\$26,517,297	971	Extraordinary Maintenance	\$0	\$80,953	\$66,026	\$0	\$0	\$133,970	\$280,949
911	Administrative Salaries	\$0	\$264,117	\$126,404	\$805,508	\$0	\$270,787	\$1,466,816	973	Housing Assistance Payments	\$150,231	\$0	\$0	\$20,674,103	\$0	\$536,615	\$21,360,949
912	Auditing Fees	\$0	\$3,185	\$1,470	\$17,150	\$0	\$2,695	\$24,500	974	Depreciation Expense	\$0	\$345,998	\$206,512	\$6,141	\$0	\$190,463	\$749,014
913	Outside Management Fees	\$0	\$0	\$0	\$0	\$0	\$14,192	\$57,454	900	Total Expenses	\$150,231	\$2,614,849	\$908,784	\$22,221,453	\$238,229	\$2,621,576	\$28,755,122
914	Compensated Absences	\$0	\$14,076	\$7,296	\$21,990	\$0	\$0	\$0									
915	Employee Benefit Contributions - Administrative	\$0	\$73,510	\$40,053	\$218,396	\$0	\$83,582	\$415,541									
916	Other Operating - Administrative	\$0	\$85,759	\$36,238	\$270,296	\$12,735	\$120,220	\$525,248	1010	Total Other Financing Sources (Uses)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
921	Tenant Services - Salaries	\$0	\$39,516	\$33,495	\$52,411	\$0	\$33,758	\$159,185		Excess (Deficiency) of Operating Revenue Over (Under) Expenses	\$18,810	(\$311,725)	(\$247,301)	(\$2,155,889)	\$0	\$458,200	(\$2,237,825)
923	Contributions - Tenant Services	\$0	\$11,007	\$7,113	\$14,116	\$0	\$9,938	\$42,174	1102	Debt Principal Payments - Enterprise Funds	\$0	\$213,048	\$0	\$0	\$0	\$154,227	\$387,275
924	Tenant Services - Other	\$0	\$230	\$11,785	\$1,807	\$0	\$4,829	\$18,651	1103	Beginning Equity	\$18,772	\$1,747,479	\$6,935,880	\$628,890	\$0	\$6,887,646	\$16,016,667
931	Water	\$0	\$60,144	\$38,020	\$796	\$0	\$34,160	\$133,120	1104	Equity Transfers and Correction of Errors	\$980	(\$4,263)	\$0	\$0	\$0	\$9,469	\$6,196
932	Electricity	\$0	\$50,160	\$12,904	\$7,769	\$0	\$47,245	\$118,078	1113	Contributions Commitment (Per ACC)	\$0	\$0	\$0	\$20,025,876	\$0	\$0	\$20,025,876
933	Gas	\$0	\$14,398	\$1,636	\$1,150	\$0	\$31,068	\$48,212	1114	Pro rata maximum annual Contributions Applicable to a Period of less than Twelve Months	\$0	\$0	\$0	\$0	\$0	\$0	\$0
938	Other Utilities Expense	\$0	\$50,817	\$47,266	\$123	\$0	\$42,530	\$140,836	1115	Contingency Reserve, ACC	\$0	\$0	\$0	\$0	\$0	\$0	\$0
941	Operations - Labor	\$0	\$299,487	\$132,279	\$1,619	\$0	\$291,694	\$735,079	1116	Program Reserve	\$0	\$0	\$0	\$0	\$0	\$0	\$0
942	Operations - Materials and Other	\$0	\$62,811	\$3,046	\$5,250	\$37,981	\$57,526	\$166,614		Total Annual Contributions Available	\$0	\$0	\$0	\$20,025,876	\$0	\$0	\$20,025,876
									1120	Unit Months Available	360	2,820	1,428	19,500	0	2,424	26,532
									1121	NUMBER OF UNIT MONTHS Leased	324	2,798	1,410	19,500	0	2,363	26,395

**CITY OF ALAMEDA  
MEMORANDUM**

DATE: December 30, 2004

TO: Honorable Mayor and Members  
of the City Council

FROM: James M. Flint  
City Manager

RE: Presentation on the Basic Requirements for an Indian Tribe to Operate a  
Casino in California

Background:

This item was agendized at the request of the City Council on December 21, 2004.

Discussion:

A presentation will be given to the City Council on January 4, 2005 regarding the basic requirements for an Indian tribe to operate a casino in California. In addition, the purpose of this presentation is to inform the community about the status of the Lower Lake Rancheria Koi Nation's efforts to operate a casino in Oakland.

The item is agendized for Council discussion only and no action will be taken at this time.

Recommendation:

This report is provided is for informational purposes only.

Respectfully submitted,

James M. Flint  
City Manager

By:



Christa Johnson  
Assistant to the City Manager

Attachment

# **SUMMARY OF THE PROCESS TO COMMENCE TRIBAL GAMING**

## **I. Overview**

This document summarizes the basic requirements for an Indian tribe in California to operate a casino, and describes the status of the Lower Lake Rancheria Koi Nation's (Koi) efforts in this regard.

At a basic level, a tribe must accomplish three things in order to conduct gaming in California. First, it must be a federally-recognized Indian tribe. Second, it must have reservation land or land taken into trust by the federal government on the tribe's behalf. Third, it must have an effective gaming compact with the state. Each of these requirements are explained in greater detail below.

The Koi Nation already has the status of a federally-recognized Indian tribe. The Koi are now trying to get land in trust. If they succeed in that effort, they will seek a gaming compact with the state.

While several other tribes in the area are working through this process, two will be discussed briefly here. The Muwekma Ohlone Tribe (Muwekma) are seeking federal recognition based in part on historical ties to Alameda County. The Lytton Band of Pomo Indians (Lytton), a federally-recognized tribe with land in trust and a gaming compact with the Governor, is seeking legislative ratification of its compact so it can operate a casino in San Pablo.

## **II. Gaining Federal Tribal Recognition**

In order to be recognized by the federal government, a tribe must file a petition with the Bureau of Indian Affairs (BIA), a part of the U.S. Department of the Interior. The tribe must submit detailed information showing that it satisfies seven criteria set out in federal law and regulation.<sup>1</sup> These factors emphasize the continuous political existence of the tribe. The tribal recognition process may take many years to complete due to the large amount of detailed information the tribe needs to provide and the number of petitions that are pending review at the BIA.

The Muwekma tribe's petition for federal recognition was denied in 2002, but the Muwekma have a pending lawsuit against the BIA to reverse that determination. If the tribe is successful, the Muwekma could potentially seek to obtain land in trust in Alameda County.

As stated above, the Koi already have received federal recognition.

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<sup>1</sup> See 25 CFR Part 83.

### **III. Obtaining Land in Trust**

Generally, there are two routes for a tribe to obtain land in trust. First, Congress can pass a federal law designating land in trust for a tribe. This is how the Lytton tribe obtained its land in trust. Second, the BIA can make an administrative determination to place the land in trust on the tribe's behalf. Since the Koi are not currently the beneficiaries of a federal law, they are expected to pursue the administrative process.

The administrative process has one set of basic requirements for land to be taken into trust for non-gaming uses, and an additional set of requirements if the land is to be used for a casino. These requirements are discussed further below. The entire administrative process may take up to two years to complete.

#### **A. Basic Requirements for Taking Land Into Trust for Non-Gaming Uses (25 CFR Part 151)**

Typically, the process will begin with the tribe buying or acquiring an option to buy specific property. The tribe will then file an application with the BIA asking the BIA to take the land into trust. For this to happen, the BIA must find that the land is needed for tribal self-determination, economic development, or housing. The BIA must also find that the tribe's need for the land outweighs the impact on the localities where the land is located. In this regard, the farther the land is from reservation land of the tribe, the greater the weight given to local impact. Here, since the proposed Koi land is within the City of Oakland, Oakland's views on local impact will be important. Finally, the BIA must also find that the proposed casino complies with federal environmental laws (the National Environmental Policy Act or NEPA). This involves preparation of an Environmental Impact Statement outlining the casino's potential environmental effects and steps that must be taken to mitigate them.

There are several opportunities for public comment during the land in trust process, and during the NEPA process. The BIA public hearing held in Oakland on December 15, 2004, was part of the NEPA process.

#### **B. Additional Requirements for Taking Land Into Trust for Gaming Uses**

In addition to the basic requirements, the federal Indian Gaming Regulatory Act establishes two alternative processes for a tribe to acquire land in trust for gaming.

In the "A" process (25 USC Section 2719(b)(1)(A)), the BIA additionally must find that the casino is in the best interests of the tribe and that the casino is not detrimental to the surrounding community. In order to make this finding, the BIA must first consult with local officials and nearby tribes. In addition, the Governor must concur in the BIA's findings. Because of the Lytton compact, the Governor has reportedly stated that he will not concur with any determination of the BIA to take land in trust if the land is within the 35 mile geographical exclusivity zone provided in the Lytton compact. The proposed Koi casino is within that zone. As a result, under current facts, the Governor would not agree to allow the proposed Koi land to be taken into trust.

In the "B" process (25 USC Section 2719(b)(1)(B)), the land in question must be determined to be either the result of a settlement of a land claim, the initial reservation of the tribe, or restored lands for a tribe that is restored to federal recognition. If any of these are demonstrated, the Governor's concurrence is not required. The Koi reportedly are considering applying to have their site deemed to be restored lands of a restored tribe.

#### **C. Obtaining a "Restoration" Determination**

While the BIA is responsible for making a determination that land should be taken into trust as restored lands of a restored tribe, the analysis leading to the determination is made by the National Indian Gaming Commission (NIGC), solicitor's office. The tribe must file a separate application with the NIGC. In order for the NIGC to find that the land is the restored land of a restored tribe, the NIGC must find that the tribe formally lost recognition and then had it officially restored, and that the tribe has significant historical and cultural ties to the land. Questions have been raised regarding whether the Koi were ever formally terminated by the federal government and whether the Koi have significant ties to Alameda County (particularly in light of claims by the Muwekma).

There is no formal comment or interested party participation process in a restored lands determination. It is important to note that even if the land in question is determined to be the restored lands of a restored tribe, it does not mean the lands will be taken into trust by the BIA, since the BIA still must find that tribal need for the land outweighs the local impact.

#### **IV. Obtaining a Compact**

Once a federally-recognized tribe has acquired land in trust for gaming, it can negotiate a tribal-state gaming compact with the Governor. The compact, which describes the scope and regulation of gaming and determines tribal and state responsibilities for gaming, is required by federal law before gaming can begin. Under California law, the tribe and governor negotiate the terms of the compact, then the legislature must ratify it and the Department of the Interior must approve it. While the terms are negotiable, a federally-recognized tribe with land in trust for gaming is legally entitled to a compact. If the Governor refuses to negotiate in good faith, the Department of the Interior may decide the compact terms and issue a compact.

#### **V. Summary**

The processes involved in an Indian tribe's effort to begin gaming are complex, multi-layered, and time-consuming. It is important for interested parties to address each step in the process. Local governments are a relevant factor, and there are important opportunities for public comment and involvement in federal decision-making in this area.

**UNAPPROVED MINUTES**  
MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -DECEMBER 21, 2004- -6:00 P.M.

Mayor Johnson convened the Special Meeting at 6:05 p.m.

Roll Call - Present: Councilmembers Daysog, Gilmore, Kerr,  
Matarrese and Mayor Johnson.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(04- ) Conference with Legal Counsel - Anticipated Litigation;  
Initiation of litigation pursuant to subdivision (c) Section  
54956.9; Number of cases: One.

Following the Closed Session, the Special Meeting was reconvened  
and Mayor Johnson announced that direction was given to Legal  
Counsel and no action was taken.

Adjournment

There being no further business, Mayor Johnson adjourned the  
Special Meeting at 7:30 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the  
Brown Act.

## **UNAPPROVED MINUTES**

### MINUTES OF THE REGULAR CITY COUNCIL MEETING TUESDAY- - -DECEMBER 21, 2004- - -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 8:19 p.m.

ROLL CALL - Present: Councilmembers Daysog, Gilmore, Kerr,  
Matarrese, and Mayor Johnson - 5.

Absent: None.

#### Minutes

(04-\_\_\_\_) Minutes of the Special City Council meeting of December 2, 2004, the Special and Regular City Council Meetings of December 7, 2004, and the Special City Council Meeting of December 14, 2004.

Vice Mayor Daysog moved approval of the minutes.

Councilmember Kerr seconded the motion, which carried by unanimous voice vote - 5. Note: Councilmember Gilmore abstained from voting on the December 14 Minutes.

(04-\_\_\_\_) Resolution No. 13803, "Commending Barbara Kerr for Eight Years of Service to the City of Alameda as Councilmember." Adopted.

Supervisor Alice Lai-Biker read and presented a Resolution from the Board of Supervisors to Councilmember Kerr.

Councilmember Matarrese moved adopted on the resolution.

Councilmember Gilmore seconded the motion, which carried by unanimous voice vote - 5.

Mayor Johnson presented Councilmember Kerr with the Council resolution, a Resolution from Senator Perata and Assemblywoman Chan, a plaque and flowers from the City, and a certificate from Congressman Stark.

(04-\_\_\_\_) Resolution No. 13804, "Acknowledging City Manager James Flint for His Contributions to the City of Alameda." Adopted.

Mayor Johnson presented the City Manager with a plaque and flowers from the City.

Councilmember Kerr moved adoption of the resolution.

Vice Mayor Daysog seconded the motion, which carried by unanimous voice vote - 5.

The Councilmembers each made comments and thanked Councilmember Kerr and the City Manager for all of their hard work over the years.

#### Farewell Comments by Council

(04-\_\_\_\_) Councilmember Kerr and the City Manager each made comments and expressed their appreciation to the Council.

#### Recess/Refreshments

Councilmember Kerr called a recess at 8:47 p.m. and Mayor Johnson reconvened the Regular Meeting at 9:10 p.m.

Jean Sweeney, Alameda, commended Councilmember Kerr for all of her hard work.

Jim Sweeney, Alameda, thanked Councilmember Kerr for her dedication; stated that Councilmember Kerr was always thoroughly prepared.

Mayor Johnson read a letter submitted by Former City Clerk Diane Felsch thanking Councilmember Kerr for her diligence, fair-mindedness and concern for the residents of Alameda.

#### PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(04-\_\_\_\_) Proclamation declaring December 21, 2004 as Tap Dancing Christmas Tree Day in Alameda.

Mayor Johnson read and presented the proclamation to the members of the Tap Dancing Christmas Tree group.

#### REORGANIZATION OF COUNCIL

##### Installation

(04-\_\_\_\_) The Honorable Judge C. Richard Bartalini administered the Oaths of Office to:

##### Office of City Councilmember

Marie Gilmore  
Doug deHaan



Office of City Auditor

Kevin Kearney

Office of City Treasurer

Kevin Kennedy

Roll Call New Council - Present: Councilmembers Daysog, deHaan, Gilmore, Matarrese, and Mayor Johnson -5.

Absent: None.

Consideration of Appointment of Vice Mayor

(04-\_\_\_\_) Councilmember Daysog moved that Council appoint Councilmember Gilmore as Vice Mayor.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

Mike McMahon, Alameda Unified School District, congratulated Vice Mayor Gilmore and Councilmember deHaan.

Comments by New City Council

(04-\_\_\_\_) Vice Mayor Gilmore and Councilmember deHaan each made comments and thanked their supporters.

AGENDA CHANGES

(04-\_\_\_\_) Mayor Johnson presented the Proclamation to the Tap Dancing Christmas Trees before the Installation.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to approve a Finding [paragraph no. 04\_\_\_\_], and recommendation approving Revised Memorandum of Understanding [paragraph no. 04-\_\_\_\_] were removed from the Consent Calendar for discussion.

Vice Mayor Gilmore moved approval of the remainder of the Consent Calendar.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*04- ) Ratified bills in the amount of \$2,114,961.34.

(04- ) Recommendation to approve a Finding that repair of the Main Street Ferry Terminal Facility constitutes a great necessity or emergency that requires immediate action without bid; and authorize the Interim City Manager to enter into such an Agreement(s).

Councilmember Matarrese stated that the Main Street Ferry Terminal Facility is Alameda's vital link to the rest of the world; moved approval of the staff recommendation.

Councilmember deHann seconded the motion, which carried by unanimous voice vote - 5.

(\*04- ) Resolution No. 13805, "Approving Parcel Map No. 8474 (2430-2490 Mariner Square Loop) and Accepting Dedication of Electrical Easement and Rights of Access for Operations of Public Safety Vehicles and Emergency Equipment." Adopted.

(04- ) Resolution No. 13806, "Approving Revised Memorandum of Understanding and Salary Resolution Between the Alameda City Employees Association (ACEA) and the City of Alameda for the Period Commencing July 1, 2003 and Ending June 30, 2006." Adopted.

Alan Elnick, ACEA, thanked the Council and urged adoption of the resolution.

Councilmember Matarrese moved adoption of the resolution.

Vice Mayor Gilmore seconded the motion.

Under discussion, Councilmember Daysog stated that the report does not identify where the \$652,000 in funding would come from to pay for the increases over the next two years.

The City Manager stated that about half of the funding would come from the General Fund; budget adjustments would need to be made for the balance; there may be some draw down on the General Fund over the next two years.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Gilmore, Matarrese and Mayor Johnson - 3. Noes: Councilmember Daysog - 1. Abstention: Councilmember deHaan - 1.

## REGULAR AGENDA ITEMS

None.

## ORAL COMMUNICATIONS, NON-AGENDA

(04- ) Michael Torrey, Alameda, wished the Council a Merry Christmas and Happy New Year.

(04- ) Deborah James, Alameda, congratulated Councilmember deHaan and spoke on affordable housing funding.

(04- ) Robb Ratto, Park Street Business Association (PSBA), thanked Councilmember Kerr and the City Manager for their support; stated Vice Mayor Gilmore filled some big shoes admirably; congratulated Councilmember deHaan.

## COUNCIL COMMUNICATIONS

(04- ) Report on Harbor Island Apartments outcome of December 16 Court action, planning and building activity, and negotiations between the City and the Fifteen Asset Management Group.

The Housing Authority Director provided an update on the Harbor Island Apartments.

Councilmember Matarrese requested that the City Attorney provide a summary of the City's lawsuit.

The City Attorney responded that the City filed an action in State court and received permission from the District Attorney's office to file the action on behalf of the State; Fifteen Asset Management Group moved the action to federal court; the City filed a request for a temporary restraining order; the Court allowed the City to bring a motion for preliminary injunction; the Court took the matter under submission and requested that the Fifteen Asset Management Group attorneys work out a reasonable solution with the Harbor Island Apartments Tenants Association; the Court issued a stern order denying the motion for summary judgment and included an expressed finding that the City did not have standing to maintain the action; the City filed a request for dismissal without prejudice and the Court granted the City's motion; the Fifteen Asset Management Group filed a motion for attorney's fees seeking \$188,000 from the City, which the City is opposing.

Mayor Johnson requested an update on planning and building activity.

The Housing Authority Executive Director responded that the Planning Board conducted a Study Session on December 13 to address design, architecture, landscaping, walls, fences, gating, security, neighborhood connections, the West Alameda Neighborhood Improvement Plan, scope of review under the Planned Development (PD) process, fire sprinklers, seismic and structural upgrade requirements, plumbing and electrical systems, phasing in of renovations, transit accessibility, bicycle and pedestrian improvements, the current location of the Sales Office, parking, and the community building use; the Planning Board urged the Fifteen Asset Management Group to meet with the community and neighborhood groups to discuss the design and scope of the project; there are concerns about the project being piecemealed.

Mayor Johnson inquired whether there are any current negotiations with the Fifteen Asset Management Group, to which the City Attorney responded that the City is actively opposing the attorney fees motion; there are staff-to-staff discussions regarding the fire sprinkler and planning and building issues; there are current discussions between the Housing Authority Director and Fifteen Asset Management Group regarding possible ways to resolve Section 8 issues.

Councilmember Matarrese requested elaboration on the disposition of the remaining tenants.

The Housing Authority Executive Director responded there are no negotiations regarding the remaining tenants; stated that the Mayor urged the Fifteen Asset Management Group to continue dialoguing with tenants and to provide them with as much time as possible to move out.

Councilmember Matarrese inquired what the outcome to the request has been, to which the Housing Authority Executive Director responded that the Fifteen Asset Management Group has stated that it would work with anyone who is cooperating and continue to file unlawful detainer against those who have not cooperated.

Speakers: Rev. Pamela Kurtz, Twin Towers United Methodist Church; Dr. Athur Lipow, Alameda; Steven Garner, Alameda; Mary F. Green-Parks, Harbor Island Tenant Association; Charles Monroe, Harbor Island Tenant Association; Yvonne Keel, Alameda; Lorraine Lilley, Harbor Island Tenant Association; Destiny Thomas, Alameda; Gretchen Lipow, Alameda; William Smith, Renewed Hope; Eve Bach, Arc Ecology; Judge C. Richard Bartalini, Alameda; Lynette J. Lee, Renewed Hope; Jason Kcodjian, Fifteen Asset Management Group; C. Landry, Alameda; Reginald Lee James, Alameda; Bill Smith, Alameda; Regina Tillman,

Alameda; Richardo Reynoso, Jr., Harbor Island Tenant Association; Modessa Henderson, Harbor Island Tenant Association; Michael Yoshii, Alameda; and Michael Torrey, Alameda.

Mr. Kcodjian, Fifteen Asset Management Group, stated that the last four months have been difficult for all parties, especially the tenants; the Fifteen Asset Management Group met with the tenants in August and shortly thereafter, a tenant assistance program was implemented, which resulted in the majority of the tenants finding relocation housing; over 325 of the original 386 residents have found replacement housing; there is a need to continue to work with the remaining tenants; Fifteen Asset Management Group staff have been at the Apartments to help with housing placement since August; there have been two resident housing faires; some residents have not wanted to take advantage of the resident assistance program; residents' requests for special circumstance extensions were granted; enormous amounts of resources and time have been devoted to implementing the program that the Judge described as being above and beyond what was necessary; approximately half of the 41 remaining tenants have leases that are not due; unlawful detainers have been filed because some tenants have not paid rent; the Fifteen Asset Management Group would like to work with the City to create a quality project for the west end; that he would be happy to stay after the Council Meeting and follow up with tenants to discuss details on matters that have not been addressed.

Mayor Johnson inquired what the response would be to a tenant who originally denied assistance but would now like to take advantage of the offer, to which Mr. Kcodjian responded that he would follow up with the Fifteen Asset Management Group.

Vice Mayor Gilmore inquired what is Mr. Kcodjian's consultant capacity, to which Mr. Kcodjian responded that he is a Public Affairs Consultant.

Mayor Johnson stated that she is disappointed with the manner in which the Fifteen Asset Management Group has handled the fire sprinkler issue and with their objections to permit fees; the Fifteen Asset Management Group does not seem to be working with the City.

Vice Mayor Gilmore stated that she appreciates that the Fifteen Asset Management Group is concerned enough to send a representative to the Council Meeting; the community has many questions that were brought up at the Planning Board Public Meeting; the community needs to have a qualified architect or developer answer factual questions.

Councilmember Matarrese inquired what are Fifteen Asset Management Group's remedies and obligations for the protection of the remaining tenants living in boarded up apartments and how the situation could be brought to the attention of the Judge; stated that Fifteen Asset Management Group should be made aware of the disruption they have caused the City.

Councilmember deHaan stated that the remaining tenants are spread throughout the units; safety and welfare is of utmost importance; inquired what direction is being taken regarding long-term leases.

Mr. Kcodjian responded that he would attempt to get a response to the inquiry.

Mayor Johnson encouraged tenants to meet with Mr. Kcodjian to discuss their issues; stated that the manager at the site does not appear to have any authority and that Mr. Kcodjian does not have answers; tenants need to communicate with people that have some authority; Mr. Kcodjian needs to have the owners of the property help the tenants; tenants would not be attending Council meetings if help was being provided.

Councilmember deHann questioned what would be the Fifteen Asset Management's rental market point.

Councilmember Matarrese stated that he would like to have the following on the January agenda: whether tenant testimony can be submitted to Judge Alsup, a requirement for a certain amount of time to give notice for mass evictions, to connect the Harbor Island Apartment incident to a long-range view on what the West End will look like in the future; and a moratorium on new construction.

Mayor Johnson stated that tenants should be given more time if the owners are taking time to argue over permit fees.

Vice Mayor Gilmore requested that when the matter returns to Council, information be provided on when a Planning or Development application is deemed complete.

Councilmember Daysog stated the City should work with the families that want to find housing in Alameda; false hopes should not be raised; promises that cannot be kept should not be made; the City needs to facilitate housing opportunities for families who want to move; the Fifteen Asset Management Group is not liked or trusted; he would like ideas, thoughts, and plans for the City's role as a resource for rental housing opportunities; he is eager to work with Judge Bartalini on thinking through the best policy that prevents the City from repeating the Harbor Island Apartment situation and

hearing other people's thoughts on the matter.

Councilmember Matarrese inquired whether there is a vehicle available to get the Harbor Island Tenants Association testimony before the Judge.

The City Attorney responded that the only scheduled court date is on February 10; tenants have the opportunity to file an action seeking damages.

Councilmember Matarrese stated that it is very important for the City to exercise a standing.

Mayor Johnson stated the Council needs to give direction on the West Alameda Neighborhood Improvement Plan.

Councilmember Matarrese stated that he would like to address the situation of remaining tenants at the January 4 meeting.

Mayor Johnson stated that the Council should review possible roles that the City can play in finding housing for the current tenants; requested that the matter be brought to Council at the January 4 meeting.

Vice Mayor Gilmore inquired when the Fifteen Asset Management Group would respond to questions raised.

Mr. Kcodjian responded that he would convey the request to Fifteen Asset Management Group.

Councilmember deHaan inquired whether a report could be obtained from Eden I & R quantifying their actions and efforts.

Mr. Kcodjian responded that he would follow up on the matter with Fifteen Asset Management Group.

The City Attorney stated that a relocation ordinance could be prepared for the January 18 City Council Meeting, if directed by Council.

Councilmember Matarrese moved that information regarding the status on what can be done for the remaining tenants and how the City could serve as a resource in providing relocation assistance be placed on the January 4 City Council Meeting agenda.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

Councilmember Matarrese moved that a draft ordinance regarding reasonable notification and tenant compensation requirements for large property owners be placed on the January 18 City Council Meeting agenda.

The City Attorney stated that she could provide the framework for the draft ordinance with blanks to be filled in by Council.

Councilmember Matarrese requested that moratoriums on construction be discussed at the January 18 City Council meeting.

Vice Mayor Gilmore stated the draft ordinance is just the first step; Council needs to be careful and thoughtful throughout the process to ensure that the ordinance is complete and lasts a long time.

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(04-\_\_\_\_) Vice Mayor Gilmore moved that the Regular Meeting be continued past midnight.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

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Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

Councilmember Daysog stated that false hopes should not be raised; Council will do what is in the best interest of the City.

Councilmember deHaan concurred with Councilmember Daysog; stated that there may not be relief for current tenants.

(04-\_\_\_\_) Councilmember Matarrese congratulated Vice Mayor Gilmore and Councilmember deHaan.

(04-\_\_\_\_) Councilmember deHaan stated there has been a \$1.4 million financial impact to the School District as a result of the Harbor Island Apartment situation; urged the School District to take necessary action to recover the loss.

(04-\_\_\_\_) Councilmember Daysog requested that the Historical Advisory Board review the movie theatre design.

Robb Ratto, PSBA, stated that there is no design for the movie theatre.

Councilmember Daysog stated the Historical Advisory Board



understands that there is no design but would like to have front end input.

The City Manager stated that Councilmember Daysog's request could be incorporated in the process.

Mayor Johnson stated that a two-tiered process should be created; requested that the matter return to Council for approval of the process and schedule.

Councilmember Daysog stated that members of the Historical Advisory Board want to be a partner of fleshing out concepts.

#### Adjournment

(04- ) There being no further business, Mayor Johnson adjourned the Regular Meeting in memory of Mary Holgerson at 12:05 a.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

December 30, 2004

Honorable Mayor and Councilmembers:

This is to certify that the claims listed on the check register and shown below have been approved by the proper officials and, in my opinion, represent fair and just charges against the City in accordance with their respective amounts as indicated thereon.

<u>Check Numbers</u>	<u>Amount</u>
131710 - 132086	1,319,178.83
EFT 098	2,693,114.14
EFT 099	33,250.00

Void Checks:

131149	(488.18)
122068	(55.00)
122067	(55.00)
122070	(55.00)
131264	(1,098.84)
131170	(4,660.34)
109556	(225.00)
121863	(110.00)
116022	(96.00)
116777	(104.99)
118059	(304.00)
104453	(34.00)
121749	(813.58)
124002	(294.01)
121815	(20.00)
121816	(20.00)
121817	(20.00)

GRAND TOTAL	4,037,089.03
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Allowed in open session:

Date: \_\_\_\_\_

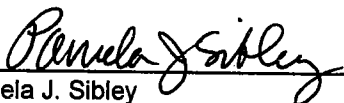
\_\_\_\_\_  
City Clerk

Approved for payment:

Date: \_\_\_\_\_

\_\_\_\_\_  
Chief Financial Officer

Respectfully submitted,

  
Pamela J. Sibley

Council Warrants 01/04/05

BILLS #4-B  
01/04/05

# CITY OF ALAMEDA

## MEMORANDUM

Date: December 20, 2004

To: Honorable Mayor and  
Councilmembers

From: James M. Flint  
City Manager

Re: Recommendation to Award Contract in the Amount of \$127,102.65 to Stewart & Stevenson,  
for Ferry Vessel Reduction Gears, No. P.W. 10-04-15

### BACKGROUND

On November 16, 2004, the City Council authorized a Call for Bids for the purchase of two vessel reduction gears, No. P.W. 10-04-15. The reduction gears are boat transmissions that will be kept as spare parts for the Peralta and the Encinal. Bids were opened on December 2, 2004. The City received two bids: from Cummins West (Cummins) and from Stewart & Stevenson (S&S).

### DISCUSSION/ANALYSIS

To solicit the maximum number of bids and the most competitive price, specifications were provided to 18 separate building exchanges throughout the Bay Area. In addition, a notice of bid was published in the *Alameda Journal*.

The list of bidders from lowest to highest for total project cost is as follows:

Bidder	Location	Bid Amount
Stewart & Stevenson	San Leandro, CA 94577	\$127,102.65
Cummins	San Leandro, CA 94577	\$127,259.25

The engineer's estimate of the project is \$130,000.

The S&S bid included three "proposed" exceptions to the Call for Bids documents. The "proposed" exceptions were suggested changes to the bid document; however, the bid provided by S&S was for the project as advertised by the City. Staff declined to make any of the changes suggested by S&S. The signed contract (entered into as an Addendum to Purchase Order) is on file in the City Clerk's Office.

*Dedicated to Excellence, Committed to Service*

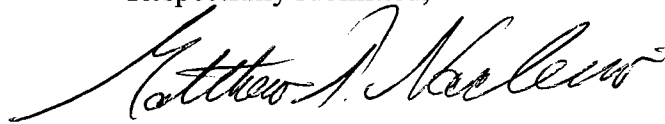
BUDGET CONSIDERATION/FISCAL IMPACT

This project is funded under CIP#'s 04-83 and 04-84. Funding is from Metropolitan Transportation Commission (MTC) Regional Measure 1-2% Bridge Toll Funds. No general fund money is used in this project and there is no local match requirement.

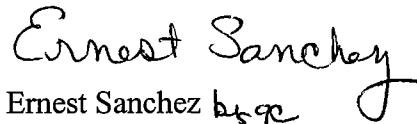
RECOMMENDATION

The Interim City Manager recommends that the City Council, by motion, award the contract in the amount of \$127,102.65, to Stewart & Stevenson for ferry vessel reduction gears, No. P.W. 10-04-15.

Respectfully submitted,



Matthew T. Naclerio  
Public Works Director



By: Ernest Sanchez *ES*  
Ferry Services Manager

MTN:ES:gc

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# **CITY OF ALAMEDA**

## **MEMORANDUM**

Date: December 28, 2004

To: Honorable Mayor and  
Councilmembers

From: James M. Flint  
Interim City Manager

Re: Recommendation to Terminate the Contract with J.W. Riley & Son, Inc. for Alameda Point  
Multi Use Field, No. P.W. 12-02-18 and Authorize Project Completion

### **BACKGROUND**

On July 15, 2003, the City Council adopted plans and specifications and called for bids for construction of the Alameda Point Multi Use Field Project, No. P.W. 12-02-18. On November 18, 2003, the City Council awarded a contract for this work in the amount of \$199,600, including contingencies, to J.W. Riley & Son, Inc. (Riley). The contract provided for the work to be completed no later than April 30, 2004, and also provided for liquidated damages in the amount of \$200 per day. The project is 95% complete and until recently Riley was making slow progress in response to pressure from City staff. Riley has been given repeated notices and ample opportunity to complete the work, but has become non-responsive.

### **DISCUSSION/ANALYSIS**

The contractor mobilized on December 26, 2003. The contractor successfully graded and filled the field, installed the irrigation system and hydroseeded the field. However, the contractor was unable to complete two items due to payment disputes with his subcontractors and suppliers: installation of the booster pump for the irrigation system and the special soil for the baseball infield area. The City ultimately paid the subcontractors and suppliers directly in order to complete these items. While 95% of the project is complete and Riley has completed all of the "big ticket" elements of the project, the contractor has been unable to resolve a number of minor "punchlist" issues.

Continuous consultations were made with staff of the Alameda Recreation & Park Department and the City Attorney's Office to determine the best contractual course of action. In view of the contractor's on-going, albeit slow, response on the "punchlist" items, it was unanimously decided that it would be more beneficial to the City to let the Contractor continue to work on the field until completion. However, in October 2004, Riley became non-responsive and little or no work on the proper establishment of the lawn was being completed. Outstanding items include bare spots on the field where turf establishment has not occurred, bare spots on the planting strips, picking up of rocks,

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cleaning the stockpiling area by a mechanical sweeper, and providing and anchoring a cushion pad underneath the booster pump.

Staff met with Riley several times and sent numerous letters giving notice that the Contractor's failure to perform and complete these outstanding items constituted a breach of agreement. Staff has also written to the Contractor's surety company seeking their assistance; however, the surety failed to remedy the situation. It became apparent that the Contractor was unable to complete these outstanding items, especially in turning the bare spots into turf.

Given Riley's performance to date, City staff has grave concerns about Riley's ability to complete the remaining work. Among other factors, the City has received more than \$200,000 in claims from Riley's subcontractors and suppliers alleging non-payment<sup>1</sup>. Four of them have filed suit. The next phase of the work, a 120-day maintenance period for the playing field surface, is critical to the long-term success of the project and requires a reliable contractor for the work.

Based on the above non-performance and the serious doubt in the financial capability of the Contractor, the City served, on October 15, 2004, notice to the Contractor and its surety advising of the City's intent to suspend and/or terminate the contract and complete the work at the Contractor's expense. Neither the Contractor nor the surety responded to the City's notice. On November 18, 2004, the City served a Notice of Temporary Suspension of Work on the Contractor. The project specifications allow the City to suspend the contract and complete the work using funds withheld from the contractor if the Contractor fails to satisfactorily perform the work. The project agreement also provides for termination of the contract upon the Contractor's failure to perform.

The City is holding sufficient funds to complete the work and recover the accumulated liquidated damages. Staff proposes completing the work using a different contractor. The cost of this work by the new contractor will be deducted from the payment withheld from the Contractor.

In consultation with City staff and the City Attorney's Office, the Interim City Manager recommends terminating Riley's contract at this time. The City will retain a reliable contractor for the maintenance period. We recommend this course of action in lieu of pursuing Riley's bonding company for several reasons. First, the City is holding sufficient funds to pay for the relatively small amount of remaining work, so the City will not incur any out-of-pocket costs<sup>2</sup>. Second, a demand on the bonding company would delay performance of the remaining work, particularly the maintenance

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<sup>1</sup>The City is not obligated to distribute funds to stop notice claimants unless money remains after City has recovered liquidated damages, staff costs and completion costs. The remaining funds, if any, will be divided among the stop notice claimants on a pro rata basis.

<sup>2</sup> When the project is complete, staff will assess the City's actual costs and, in consultation with the City Attorney's office, make a determination of whether to pursue the contractor and/or surety.

period which could jeopardize the long-term health of the turf. Finally, the surety would probably propose having Riley complete the work, which would leave the City in the position of dealing with an unreliable contractor.

Upon completion of the project, staff proposes to file a Notice of Completion and accept the project. These proposed actions have been reviewed and approved by the City Attorney's Office.

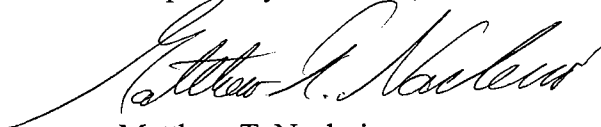
#### BUDGET CONSIDERATION/FINANCIAL ANALYSIS

Funding for the construction project is budgeted under CIP #02-01, including \$214,588 from the Roberti-Zeberg per capita program of the Safe Neighborhood parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Proposition 12), \$64,000 from a donation from the Alameda Soccer Club, and \$27,966 from the Dwelling Unit Tax (DUT) fund. There are sufficient funds remaining in the budget to complete the work.

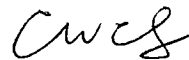
#### RECOMMENDATION

The Interim City Manager recommends that the City Council, by motion, terminate the contract with J.W. Riley & Son, Inc. for the Alameda Point Multi Use Field, No. P.W. 12-02-18, and authorize project completion.

Respectfully submitted,



Matthew T. Naclerio  
Public Works Director



By: CW Chung  
Associate Civil Engineer

MTN:CWC:gc:ms

cc: J.W. Riley & Son, Inc.

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**CITY OF ALAMEDA  
MEMORANDUM**

Date: December 29, 2004

To: Honorable Mayor and  
Councilmembers

From: James M. Flint  
City Manager

Re: Recommendation to Award Contract in the Amount of \$45,000 for  
Financial Modeling Services to Maze & Associates

**BACKGROUND**

During the presentation of the FY 2004 *Comprehensive Annual Financial Report* and the *Memorandum on Internal Control Structure* at its December 7, 2004, meeting, the Council directed the City Manager to instruct staff to work with the City Auditor and City Treasurer to develop a scope of work resulting in financial modeling services with Maze & Associates.

**DISCUSSION/ANALYSIS**

The *Memorandum on Internal Control Structure* included a discussion of the near term impacts of current pension obligations. As a result of this discussion, Council expressed the desire to have a 10-year financial model, which would provide context for and impacts of decisions made by the Council.

At Council's direction, staff prepared the attached Scope of Work. The City Auditor and City Treasurer have reviewed and provided comments on the scope. In order to ascertain the most cost effective manner in which this program could be used, Maze was asked to provide two pricing structures on a not to exceed (NTE) basis. The Consultant Agreement and Scope of Work are on file in the City Clerk's office. The Scope of Work is attached for reference.

The first pricing structure covers the cost of building the model and training City staff in the use and operation of it. The advantage of hosting the model in-house is quick turn around when alternative assumptions are applied. The disadvantage is not having a budget analyst on staff, which makes operation of the model a secondary task for several Finance Department staff.

The second pricing structure covers the cost of building the model and providing updated reports each February 15th. The advantage of not hosting the model, but receiving a report, is not assigning staff time to operation of the model. The



disadvantage would be the extra cost of obtaining reports when alternative assumptions are applied.

BUDGET ANALYSIS/FINANCIAL IMPACT

We will attempt to accommodate this new cost within the Finance Department budget. However, to the extent that we do not have funding available, we will need to rely on General Fund Reserves to provide for any costs in excess of budget that may occur.

RECOMMENDATION

The City Manager recommends that Council select the first alternative and, by motion, award a contract to Maze & Associates in the amount of \$45,000 for financial modeling services.

Respectfully submitted,

James M. Flint  
City Manager

  
By: Juelle-Ann Boyer  
Chief Financial Officer

Attachment

JAB:dl

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**SCOPE OF WORK  
FINANCIAL MODELING SERVICES**

**Purpose**

1. To provide a 10 year financial model for the City of Alameda beginning at July 1, 2004, to be used in the construction and presentation of prospective two year financial plans and budgets.
2. To include no more than 10 comparative ratios for purposes of benchmarking the projected financial performance of the City. Comparisons would be with peer group cities.
3. To provide a working model for implementation by City staff or, alternatively, to each February 15 present a report with the conclusions from the model.

**Contents (items to be included in the model and report)**

1. The model will be built using Excel and all assumptions will be clearly stated and integrated into the model. Will include ability to adjust number of misc. and safety employees by year; adjust revenues and expenditures/expenses by line item by year.
2. The model will include instructions for updating in future years.
3. Assumptions to be used in the construction of the model shall be agreed by City and Consultant .
4. Governmental funds in total, each Enterprise fund and the Pension Trust funds will be included in the model.
  - a. Each of the 5 major governmental revenues and 5 major governmental expenditures/obligations will be included in detail, as well as the major revenues and expenses for each Enterprise fund.
  - b. Will include standard recurring transfers between Governmental, Pension Trusts and Enterprise. Funds.
  - c. All operating departments will be displayed in detail by object code (such as salary and benefits, supplies, professional services, communications, utilities, capital outlay, debt service and all other items) and summary in order to accumulate the fund revenues and appropriations.
5. The current Capital Improvements “wish list” which cuts across funds will be included for purposes of dollar impacts.
6. A summary page by fiscal year of Governmental and Enterprise revenues and appropriations assumptions and key benchmark ratios as defined above.

## Product Provided

1. An operating model in electronic form, which will be the sole property of the City of Alameda with no proprietary interests or claims by the Consultant, its employees, agents or contractors . Consultant may construct similar models if requested by other clients. City will not share this model with others without prior consent by consultant .
2. An instruction document outlining the method of use and interpretation of the selected benchmarks.
3. Or alternatively, upon recommendation of the City Manager and direction of the City Council, to provide by February 15 each year the results of the updated processing of the model including Item 4, 5, and 6 from Content section above.

## Pricing

1. Provide the cost of one time effort to build the model and train City of Alameda staff in the operation of the model.
  - a. The total not to exceed price is \$45,000 as detailed in b,c, and d following.
  - b. It is estimated that the cost to obtain historical data, build the initial model and provide a written report will range between \$28,000 and \$38,000 (320-400 hours).
  - c. It is estimated that the cost to develop an instruction document to use the model and to outline the assumptions used is \$2,500 (20-30 hours).
  - d. It is estimated that the cost to train City of Alameda staff in the operation of the model is \$2,000 (15-25 hours).
2. Alternatively, as directed by City Manager and City Council provide the cost of building the model and providing updated reports each February 15.
  - a. The total not to exceed price is \$45,500 in the first year as detailed in b, c, and d following.
  - b. It is estimated that the cost to obtain historical data and build the initial model will range between \$28,000 and \$38,000 (320-400 hours).
  - c. It is estimated that the cost to develop an instruction document to use the model and to outline the assumptions used is \$1,500 (15-20 hours)
  - d. It is estimated that the cost to provide an annual update to the model and a written report as to variances and changes in assumptions will range between \$4,500 and \$6,000 (40-55 hours).

# CITY OF ALAMEDA

## MEMORANDUM

To: The Honorable Mayor  
and Members of the City Council

From: James M. Flint  
City Manager

Date: December 8, 2004

Re: Recommending Acceptance of Affordable Housing Ordinance Annual Review

### Background

On December 19, 1989, the City Council adopted Ordinance 2445 N.S. and 2468 N.S. (AMC Title XX) which imposed affordable housing requirements on non-residential construction to mitigate the impact of employment resulting from non-residential construction on the City's affordable housing stock. The requirements of the Affordable Housing Unit/Fee (AHUF) Ordinance can be satisfied either by the provision of housing units affordable to low and moderate income people or by the payment of an in-lieu fee. Resolution No. 11899 and 12075 established the specific housing unit and fee requirements.

In June 2001, the City Council adopted Ordinance No. 2859, which clarified and simplified the previous ordinances. Resolution No. 11899 and 12075 were repealed and replaced with Resolution No. 13336, which established new specific housing unit and fee requirements and increased the in-lieu fee under the ordinance by 15 percent as an adjustment for prior inflation. The 15 percent increase was approved in conjunction with the establishment of a Citywide Development Fee, such that total development impact fees would be comparable to other cities. The new resolution also provided for an annual fee adjustment to reflect changes in construction costs.

The Municipal Code mandates an annual review of the unit/fee requirements by the City Council to determine whether they are reasonably related to the impacts of development. This report is intended to satisfy the annual review requirement for the fiscal year ending June 30, 2004.

### Discussion/Analysis

At the time of building permit application, a developer must satisfy the affordable housing requirement either by providing the affordable units or by paying an in-lieu fee. To date, one developer has provided a two-bedroom unit. All other developers have paid an in-lieu fee instead of providing housing units.

The ordinance provides developers with a process to apply for an adjustment or waiver of the affordable housing requirement if there is no reasonable relationship between a particular project and the need for affordable housing. The appeal process includes a review by the Development Services Director and City Council, which makes the final decision.

The original study utilized to establish the affordable housing fees, documented the relationship between the employment impacts of non-residential development and affordable housing needs. It recently has been reviewed, and its findings continue to be relevant. Construction or expansion of non-residential development continues to be a major factor in attracting new employees to the City, which in turn creates a need and demand for additional housing in the City. The City has not yet satisfied the goals established in the Housing Element for affordable housing, and the average market price of housing is well beyond the reach of households at very low, low and moderate income levels. Therefore, the need for affordable housing persists.

High land costs and scarcity of land available for development hinder the provision of affordable housing units solely through private action. Limits on housing product that can be built and owned privately, and the cost of achieving those units, add to the supply problem. Affordable housing rents and purchase prices remain below the level necessary to stimulate new construction. In addition, Federal and State housing finance and subsidy programs remain insufficient by themselves to satisfy affordable housing needs. There remains a rational relationship between the housing need created by employment resulting from non-residential development and the housing unit or in-lieu fee requirement. Therefore, affordable housing unit and fee requirements remain necessary.

The annual fee increase instituted by Resolution No. 13336 is based on the increase in local cost of construction, as reported by the Engineering News Report Construction Price Index for San Francisco. From July 2003 to June 2004, the cost of construction rose by 4.4 percent. The revised AHUF fees have been forwarded to the Finance and Planning and Building Departments, and were included in the Master Fee schedule effective July 1, 2004. The following table lists the adjusted fees by development type:

	<b>FY 2003-04 Fee</b> (per sq ft)	<b>Adjustment of</b> <b>4.4%</b>	<b>FY 2004-05 Fee</b> (per sq ft)
Office/R&D	\$3.63	+\$0.16	<b>\$3.79</b>
Retail	\$1.84	+\$0.08	<b>\$1.92</b>
Warehouse/Industrial	\$0.63	+\$0.03	<b>\$0.66</b>
Manufacturing	\$0.63	+\$0.03	<b>\$0.66</b>
Hotel/Motel	\$931/room	+\$41.00	<b>\$972/room</b>

Fiscal Impact

The Affordable Housing Unit/Fee Ordinance has no impact on the General Fund. By ordinance, funds from affordable housing fees are segregated in a special fund that can only be used for eligible purposes specified in the ordinance.

From July 1, 2003, through June 30, 2004, a total of \$56,251 in fees was credited to the Affordable Housing Fund. Expenditures from the fund supported the City's first time homebuyer programs as well as residential rehabilitation programs.

Recommendation

The City Manager recommends acceptance of this report in order to satisfy the Annual Review requirement in the Affordable Housing Unit/Fee Ordinance.

Respectfully submitted,



Leslie A. Little  
Development Services Director



By: Carol Beaver  
Community Development Manager

LAL/CB/TW:sb

cc: William C. Norton

# CITY OF ALAMEDA

## MEMORANDUM

December 15, 2004

**TO:** Honorable Mayor and Councilmembers

**FROM:** James M. Flint  
City Manager

**RE:** Recommendation to Approve and Authorize the City Manager to Execute an Agreement Between the Alameda Unified School District and the City of Alameda for Use and Development of Real Property at the K-8 School and Park Site in the Bayport Residential Development Project

### Background

The Bayport Residential Development Project is presently under construction to develop 485 residential units at the former U.S. Navy FISC site. The project is being constructed and developed by Warmington Homes and the Catellus Residential Group, and is located on Ralph Appezato Parkway between Fifth Street and Main Street.

The Project includes a seven (7) acre elementary school site and a four (4) acre City neighborhood park site. The park and school are located in the center of the development to best serve the residents and to enable children to conveniently use the park and school.

### Discussion/Analysis

The Joint Use Agreement is intended to be a partnership between the City of Alameda (City) and Alameda Unified School District (AUSD) and provides that the City and AUSD will share and benefit from the following facilities:

1. During school hours AUSD will have priority use of the park field areas for students with the exception of City scheduling time for park maintenance needs and City sponsored special programs. The park playground and picnic areas will be open to the public. The entire park will be open for public use during non-school hours including weekends and during the summer months. The conceptual design of the park maximizes the available open space and allows for the construction of a full size soccer field. City will maintain the Park.
2. The community will have access to the Community Building and the AUSD school grounds (e.g., basketball courts) during non-school hours. AUSD will maintain the school grounds.

Report #4-G CC  
1-4-05

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3. The City will build a Community Building on the AUSD school site. The Community Building will be used to provide the Alameda Recreation & Parks (ARPD) before school and after school programs as well as Preschool/Tiny Tot programs during the day for neighborhood youth. Alameda Recreation and Parks (ARPD) will maintain the Community Building. The City will build and maintain the Community Building. AUSD will give priority use of the Multi-purpose Facility to ARPD for community recreational programs.
4. The Parking Lots (City and School) will be used primarily by AUSD during school hours and by the City and community during non-school hours. This will result in the use of approximately 80 onsite parking spaces. There will be a minimum of two (2) disabled and five (5) regular limited time parking spaces for public and parent use. The Parking Lots will be maintained by AUSD.

The term of the Agreement will be for fifty (50) years and shall be automatically extended for successive five year terms. The Agreement includes a ninety (90) day termination clause. The Joint Use Agreement will enable AUSD and City to apply for any available State grants to assist with the development of the new School/Park Project in the Bayport Residential Development Project. AUSD has agreed to work cooperatively with the City Public Works Department to develop a traffic circulation plan for the school site.

The AUSD Board of Education approved the Joint Use Agreement at their meeting of December 14, 2004.

#### **Budget Consideration/Financial Impact**

There would be no budget or financial impact to the General Fund. The construction of the Park Site and Community Building will be funded from the Bayport Project revenues.

#### **Recommendation**

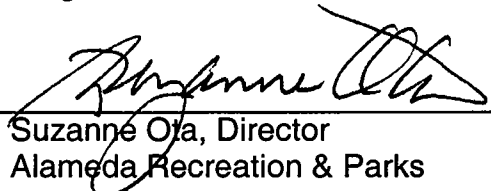
The City Manager recommends that the City Council approve and authorize the City Manager to execute an Agreement between the Alameda Unified School District and the City of Alameda for use and development of real property at the new K-8 School and Park Site in the Bayport Residential Development Project.

Respectfully submitted,

James M. Flint  
City Manager

Attachments

By: \_\_\_\_\_

  
Suzanne Oja, Director  
Alameda Recreation & Parks

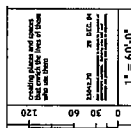
JMF:SO:bf





CITY OF ALAMEDA  
ALAMEDA, CALIFORNIA

## MASTER PLAN CONCEPT



P 916 | 772-4300  
F 916 | 772-4330  
E [lpal@lpalinc.com](mailto:lpal@lpalinc.com)  
W [www.lpalinc.com](http://www.lpalinc.com)

Long-term goals, however, are seldom stated clearly. For example, the National Commission on the Causes and Prevention of Violence states that the purpose of the study is to "provide information that will be useful in the development of effective strategies for the reduction of violence." The report itself, however, does not state what the authors believe to be the causes of violence, nor does it state what they believe to be the most effective strategies for the reduction of violence.

Architecture  
Planning  
Interior Design  
Landscape Architecture  
Graphics

ORIGINAL

**AGREEMENT BY AND BETWEEN THE ALAMEDA UNIFIED SCHOOL DISTRICT  
AND THE CITY OF ALAMEDA RECREATION AND PARKS DEPARTMENT FOR THE  
USE AND DEVELOPMENT OF REAL PROPERTY**

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004 by and between the Alameda Unified School District (hereinafter known as "School District") of Alameda County, State of California, and the City of Alameda (hereinafter known as "City") of the City of Alameda, a Charter City and Municipal Corporation.

**RECITALS**

**WHEREAS**, Chapter 10 of Part 7 of Title 1 of the Education Code of the State of California authorized and empowers public school districts and other public agencies to cooperate with each other and to that end enter into agreements with each other for the purpose of organizing, promoting, and conducting programs of community recreation, establish systems of playgrounds and recreation, and acquire, construction, improve, maintain and operate recreation centers as provided in Education Code § 10902; and

**WHEREAS**, it is in the public interest that the recreational and educational facilities of public agencies be put to the fullest possible use; and

**WHEREAS**, the School District intends to construct a new K-8 school on seven (7) acres of land it owns, or intends to acquire, within the Bayport Development site; and

**WHEREAS**, the City intends to develop a park on four (4) acres of land its owns, or intends to acquire, adjacent to the proposed seven (7) acre school site within the Bayport Development site; and

**WHEREAS**, the City and the School District desire to establish a basis for the cooperative use the new K-8 school in the Bayport Development site and the adjacent park site.

**WHEREAS**, the City and the School District desire to set forth their respective rights duties and obligations with respect to the construction, use and maintenance of the various improvements to be constructed on the new K-8 school and adjacent park site.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and conditions contained in this Agreement, School District and City agree as follows:

**1. Park Site**

Concurrent with School District's acquisition of the above-referenced school site, City has acquired title to and intends to construct, at its sole cost, a four (4) acre park site (hereinafter known as "Park Site"), as specifically described in Exhibit "A" attached hereto and incorporated herein by this reference. Facilities within the Park Site shall be segregated into two separate areas. One area shall contain various play grounds, picnic area and restroom facilities and shall be no larger than one (1) acre in area (the "Play Ground and Restroom Area". The remaining land area of the park shall

contain one or more playing fields ("Play Field Area"). In addition, the Park Site shall contain a minimum of 35 parking spaces ("Park Site Parking").

**2. School Site**

On the School Site, School District intends to construct, at its sole cost, various educational facilities ("Educational Buildings"), school grounds consisting of an asphalt play area on no less than 20,000 square feet containing at least two basketball courts and a variety of pavement games and also including fencing ("School Grounds Area"), and a multi-purpose building ("Multi-purpose Building") and a minimum of 40 parking spaces adjacent to the Park Site Parking ("School Parking") specifically described in Exhibit "B" attached.

**3. Community Building**

The School District agrees to lease the City two thousand (2,000) square feet of the School Site, for no cost, for a term of fifty (50) years for the purpose of enabling the City to construct, at its sole cost, and operate a Community Building (the "Community Building Leased Area"). The School District has the absolute discretion to identify the location of the Community Building Leased Area on the School Site.

**4. City Maintenance Obligations**

City agrees to maintain and provide utility service to the Park Site and Community Building, and Community Building Leased Area at a level of maintenance consistent with other City parks and facilities.

**5. School District Maintenance Obligations**

School District agrees to maintain and provide utility service to the School Grounds Area, the Multi-purpose Building and both the Park Site Parking and the School Parking at a level of maintenance consistent with other School District school sites, buildings and parking lots.

**6. Park Site Use**

For the term of this Agreement, this section 6 shall govern the use of the park site.

**a. During School Hours**

The City shall grant the School District an non-exclusive license for the priority use of the Play Field Area and Park Site Parking from the hours of 7:30 a.m. to 3:30 p.m. on days when the new K-8 school is open for regular instruction ("School Hours") except that the City may, upon five (5) days prior notice, exclude the School District from the Play Field Area for park maintenance operational needs and City sponsored services such as health and safety programs, emergency services exercises and related services. The Play Ground and Restroom Area will remain open to the public at all time the park site is open for any type use.

City shall retain the exclusive right to schedule all use of the Park Site during School Hours. However, during School Hours, the School District shall have the first right to reserve the Play Field Area for its exclusive use for physical education programs, class recess activities or other programmed school activities. The School

District may notify the City of its intended use of the Play Field Area up to twelve months and at least twenty-four (24) hours in advance of its intended use. The City shall have the right to schedule the use of the Play Field Area no earlier than three (3) months in advance and the public shall have the right to schedule the use of the Playing Field Area no earlier than one (1) month in advance. So long as there is no prior scheduled use of the Play Field Area, the School District shall have the right to reserve the Play Field Area for its use.

b. Non-School Hours

City shall retain the exclusive right to schedule all use of the Park Site during the periods before 7:30 a.m. and after 3:30 p.m. on days when the new K-8 school is open for session and all day long on weekends and school holidays, (the times when the School District does not have priority use) (Non-School Hours). However, during Non-School Hours the City shall give first priority to request for use of the Park Site to City sponsored programs, second priority to requests for use by the School District and thereafter to requests by the public. School District may apply for priority use up to a maximum of six (6) months prior to the desired date of use. The general public will have the right to schedule use of the site up to a maximum of three (3) months prior to the desired date of use. Previously scheduled uses will take precedence. In the event a conflict occurs City will work cooperatively with the School District to resolve the scheduling use. City, at its sole discretion, may grant or deny use of the site. When there is no scheduled use of the Park Site, it shall be open for casual use by the general public.

**7. School Site Use**

a. During School Hours

School District shall have exclusive use of the entire School Site, including the School Grounds Area, during School Hours with the exception of the Community Building Leased Area.

b. Non School Hours

Subject to applicable State law, the School Grounds Area shall be open and available for public use during Non-school hours. School District will have priority for after school programs, and once scheduled, will take priority over public use. The School District shall provide reasonable notice to the City of the dates and times during Non-School Hours when it has scheduled the use of the School Site Play Area.

**8. School Building Use**

The School District shall have the exclusive and absolute right to use the Educational Buildings at all times. The School District shall have the exclusive right to use the Multi-purpose Building during School Hours. However, the School District will permit, with reasonable prior notice, the City to use, or schedule the use, the Multi-purpose Building during non-School Hours, but extending to 8:30 a.m. on mornings and commencing at 3:00 p.m. on afternoons when school is open for instruction, so long as the School District has not scheduled a prior use. In the event a request is received by School District for use during these hours, School District will work cooperatively with City to resolve the scheduling conflict. The foregoing notwithstanding, the School District, at its sole discretion, may grant or deny any use of the Multi-purpose Building.

#### **9. Community Building Use**

In accordance with paragraph 3 above, the City may construct the Community Building at City's sole cost on an area of the School Site designated by the School District. Within the Community Building, City intends to operate before school and after school recreation programs for school students during the school year and recreation camp programs during the summer as well as recreation preschool/tiny tot programs for community residents during the day year-around. The City shall have the exclusive right to use the Community Building at any time for any public use. However, the City will permit, with reasonable prior notice, the School District to use, or schedule the use, the Community Building during times when the City is not using, or has not scheduled another public use of the Community Building. In the event a request is received by the City for the School District use of the Community Building, the City will work cooperatively with the School District to accommodate the scheduling request. The foregoing notwithstanding, the City, at its reasonable discretion, may grant or deny any use of the Community Building.

#### **10. Parking Lot Use**

##### **a. During School Hours**

During School Hours, the School District shall have the exclusive use of both the Park Site Parking and School Parking except that the School District shall reserve a minimum of two (2) disabled parking spaces and five (5) one hour limited time parking spaces for Park Site, School Site and Community Building visitors.

##### **b. Non School Hours**

During Non-school hours all Parking shall be available for use by the public.

The joint use of the Parking as set forth above shall be reflected in a reciprocal easement to be executed and recorded by parties.

#### **11. Park Site Improvements**

School District may not make any improvements to the Park Site without the prior written consent of City. Any improvements constructed on Park Site by School District, when constructed, shall be considered fixtures of the City's real property, and title to such improvements shall be thereafter vested in the City, unless School District and City agree in writing that title to said improvements shall vest to the benefit of the other party. City retains the right to require School District to remove any improvements made by School District without City consent, at sole cost of School District.

#### **12. School Site Improvements**

City may not make any improvements, with the exception of the Community Building, to the School Site without the prior written consent of School District. Any improvements constructed on School Site by City shall be considered fixtures of the School Site, and title to such improvements shall be vest to the School District, unless City and School District agree in writing that title to said improvements shall vest to the benefit of the other party. School District retains the right to require City to remove any improvements made by City without School District consent, at sole cost of City.

Further, upon termination of this Agreement, the City shall terminate its lease of the Community Building Leased Area.

**13. Term of Agreement**

This Agreement may be terminated Fifty (50) years from the date of this Agreement with 90 days written notice to the non-terminating party. If the Agreement is not terminated upon the completion of the fifty (50) year term, it shall be automatically extended for successive five-year terms unless terminated pursuant to the terms of this paragraph. If the Agreement is extended pursuant to this section, the ground lease of the portion of the School Site for the Community Building shall be similarly extended

**14. Insurance**

**a. School District**

School District shall maintain at all times a policy of comprehensive general liability insurance in the principal amount of a least Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage, automobile liability insurance in the principal amount of a least Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage, and Workers' Compensation Insurance as may be required by law. Said policy shall be endorsed to name the City of Alameda, Boards, Commissions, its officers, employees, agents, and volunteers as additional insureds regarding liabilities arising out of School District's use of the Park Site. Said policy shall be endorsed as primary and shall contain provisions which preclude policy suspension, policy cancellation, or reduction in policy limits except after thirty (30) days prior written notice to the City by certified mail, return receipt requested.

**b. CITY**

City shall at all times maintain a policy of comprehensive general liability insurance in the principal amount of at least Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage, automobile liability insurance in the principal amount of a least Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage, and Workers' Compensation Insurance as may be required by law. Said policy shall be endorsed to name the School District, its officers, employees, agents, and volunteers as additional insureds regarding liabilities arising out of City's use of the School Site or any improvement located on the School Site. Said policy shall be endorsed as primary and shall contain provisions which preclude policy suspension, policy cancellation, or reduction in policy limits except for thirty (30) days prior written notice to the School District by certified mail, return receipt requested.

**15. Indemnification**

City shall indemnify, defend and hold harmless the School District, its Boards, Commissions, officers and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees, regardless of the merits or outcome of any such claim or suit arising from or in any manner connected to City's use of the School Site, including any improvement located on the School Site pursuant to this Agreement.

School District shall indemnify, defend and hold harmless the City, its City Council, Boards and Commissions, officers and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees, regardless of the merits or outcome of any such claim or suit arising from or in any manner connected to District's use of the Park Site or the Community Building pursuant to this Agreement.

**16. Notice**

When written notice is required under this Agreement it shall be made by registered mail to the School District at:

School Superintendent  
Alameda Unified School District  
2200 Central Ave.  
Alameda, CA 94501

And to the City at:

City Manager  
City of Alameda  
2263 Santa Clara Ave.  
Alameda, CA 94501

Notice regarding scheduling matters shall be written and shall be delivered to the Maintenance, Operations and Facilities Director for the School District or its designated representative and shall be delivered to the City through the Recreation and Parks Director for the City of Alameda or the Recreation Services Manager for the City of Alameda. Reasonable prior notice as used in this Agreement shall under no circumstances be less than 24 hours prior notice.

**17. No Requirement to Construct Improvements**

Nothing in this Agreement shall be deemed to require the School District or City to construct any improvements on the Park Site or the School Site.

**18. Effectiveness of the Agreement**

The rights and duties of each party to this Agreement shall be effective only after all of the improvements, with the exception of the Community Building, have been constructed and accepted as complete by the constructing party. In addition, if all of the improvements contemplated under this Agreement have not been completed within ten (10) years of the date of this Agreement, the rights and duties set forth herein shall expire and have no force and effect. Further, if the City has not constructed the Community Building or the School District has not constructed the school within ten (10) years from the date of this Agreement, or if the School District at any time declares the School Site as Surplus Property under applicable State law, the City will terminate its ground lease on the School Site.

**19. No Third Party Beneficiary**

This Agreement is by and between the parties named herein and no third party is intended either by expression or implication to be benefited by this Agreement.

**20. Attorneys Fees**

In the event of any controversy, claim or dispute between the parties arising out of or relating to this Agreement or the breach, interpretation or enforcement of same, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorney's fees and costs.

**21. Modification**

This Agreement may only be modified in writing by mutual agreement of the parties.

**22. Invalid Term**

In the event that any provision of this Agreement shall in any respect be declared invalid, illegal, or unenforceable, such invalidity, legality or unenforceability shall not effect any other term or condition of this Agreement, and this Agreement shall be interpreted as though such illegal, unenforceable or invalid term or condition was not a part hereof.

**23. Assignment**

Neither party to this Agreement shall assign the Agreement as a whole without the written consent of the other.

**24. Entire Agreement**

This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, representations, or warranties, express or implied, not specified in this Agreement.

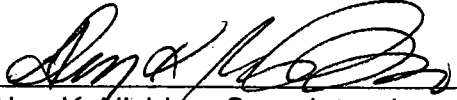
**25. Authorization**

Each person executing this Agreement represents that the party on whose behalf the person is executing the Agreement has duly authorized the execution of this Agreement and that such person is authorized to execute the Agreement on behalf of such party.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

ALAMEDA UNIFIED SCHOOL  
DISTRICT

  
Alan K. Nishino, Superintendent

CITY OF ALAMEDA  
A Municipal Corporation

\_\_\_\_\_  
James M. Flint, City Manager

RECOMMENDED FOR APPROVAL:

  
Suzanne Ota, Director  
Alameda Recreation & Parks

APPROVED AS TO FORM:

  
Donna Mooney, Deputy City Attorney

# CITY OF ALAMEDA

## MEMORANDUM

To: The Honorable Mayor  
and Members of the City Council

From: James M. Flint  
City Manager

Date: December 22, 2004

Re: Report Recommending Acceptance of the Bayport Residential Interim  
115Kv Overhead Power Line Improvements and Authorization to Record  
a Notice of Completion

---

### Background

The Expenditure Authorization to prepare plans and specifications for the Catellus / Bayport Residential 115Kv Relocation Improvements ("Improvement") was approved on March 19, 2004. The major scope of work related to the Improvements included surveying and installing new overhead power, telephone and cable lines supported by new power poles, soil and guy anchors. Work related to the Improvements was performed in accordance with the approved Overall Site Master Plan; Master Grading, Demolition and Improvement Plans; 115Kv Interim Overhead Relocation Project Plans and Specifications; Geotechnical Recommendations; Site Management and Air Monitoring Plan; Demolition Plan; Traffic Management Plan; Storm Water Pollution Prevention Plan; Health and Safety Plan; Construction Debris Management Plan; Utility Abandonment Plan; and Marsh Crust Ordinance. The City's designated City Engineer (Harris & Associates) approved the award of the Improvements contract by and between Catellus Construction Corporation the CIC's General Contractor, and Wilson Construction Company, the Catellus Sub-Contractor on March 22, 2004. The construction contract for the Improvements was executed on April 8, 2004, and the Notice to Proceed was issued on April 13, 2004.

### Discussion/Analysis

The initial estimated project budget for the Improvements totaled \$579,598.00. The approved expenditure authorization of \$439,335.00 was based on a base bid of \$395,401.50 and contingency of approximately \$43,933.50. Catellus opted to purchase some of the material required for the Improvements directly to expedite the installation in order to meet critical timelines tied to the start of construction of the Breakers at Bayport project. The procurement of material directly by Catellus reduced the Sub-Contractor's original contract by \$130,002.00 from \$385,807.00 to \$255,805.00. Change orders associated with the work attributable to unforeseen conditions encountered during construction required additional guy wire anchor supports due to poor soil conditions, in addition to supplemental work required by AP&T. As a result, the final contract amount, including change orders in the amount of \$26,582.00, totaled \$282,387.00. Total project cost for the Improvements totaled \$405,881.00, which was approximately \$173,717.00 below the initial estimated project budget for the Improvements

In accordance with Article 4.3 and Article 10.1 of the construction contract, the Sub-Contractor obtained substantial completion of the Improvements on November 18, 2004, and has provided the required two-year warranty bond. As the CIC's General Contractor, Catellus has requested final payment of funding held in retention in the amount of \$28,238.70. Pursuant to Section 4.j. (3) and (4) of the approved Construction Reimbursement Agreement, Harris & Associates concurs with AP&T's December 14, 2004 confirmation that the Improvements have been substantially completed in accordance with the approved drawings and specifications. Therefore, the City Manager recommends that the City Council formally accept the Improvements based on substantial completion. All remaining minor punch list items will be completed by AP&T.

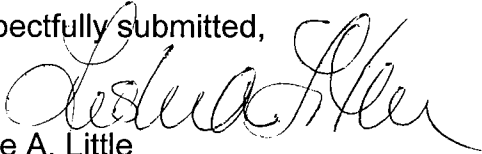
#### Fiscal Impact

All project costs related to the Improvements are funded from revenues generated from the Bayport project. Project revenues consist of land sale proceeds, profit participation and tax increment funds. All in-tract improvements, including in-tract public streets, sidewalks, landscaping and homes will be constructed by, and are the responsibility of, the Developer. Therefore, there is no financial impact on the general fund.

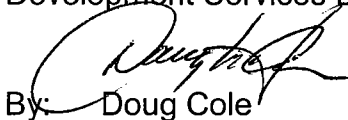
#### Recommendation

The City Manager recommends that, based on the City Engineer's and AP&T's final authority to approve the Improvements on behalf of the City, the City Council formally accept the Bayport Residential Interim 115Kv Overhead Power Line Improvements, and direct the City Clerk to file a Notice of Completion for the Improvements.

Respectfully submitted,



Leslie A. Little  
Development Services Director



By: Doug Cole  
Redevelopment Manager

JF/PB/LL/DC:mlf

cc: William C. Norton

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**CITY OF ALAMEDA**  
**MEMORANDUM**

To: Honorable Mayor and  
Members of the City Council

From: James M. Flint  
City Manager

Date: December 22, 2004

Re: Resolution Authorizing Open Market Purchase from Allied Sweepers, Inc., Pursuant  
to Section 3-15 of the Alameda City Charter, of "Green Machine" Sidewalk Cleaning  
Equipment

---

**BACKGROUND**

The West Alameda Business Association (WABA) would like to supplement existing street cleaning provided by the City. WABA feels acquiring a "Green Machine" and running it on a daily basis to clean sidewalks will further the goal of presenting a cleaner, more well-kept appearing business district. Additionally, the "Green Machine" will be operating while the Webster Renaissance Project is under construction, thereby adding to the momentum of the street's ongoing revitalization. WABA currently employs a full-time sanitation worker who will handle the operation of the machine.

**DISCUSSION/ANALYSIS**

The "Green Machine" is a specialized piece of sidewalk sweeping equipment produced exclusively by Applied Sweepers, Inc. The machine can either be pushed or ridden by an operator and has a high degree of maneuverability. It is relatively quiet at 68 decibels and can run at full capacity without disturbing residents, merchants or shoppers. In addition to sweeping, the machine can disinfect as it sweeps. Water jets on the front brushes spray liquid disinfectant on to problem areas while hydraulically powered brushes scrub the sidewalk surface clean and leave it sterile.

City Charter Section 3-15 permits Council to authorize purchase without the competitive bid process when the object of the expenditure is unique and no advantage would be realized by attempting to bid out the purchase contract and, therefore, the lowest price available would be through open market purchase directly from the exclusive distributor, Allied Sweepers, Inc. The "Green Machine" meets both of these criteria.

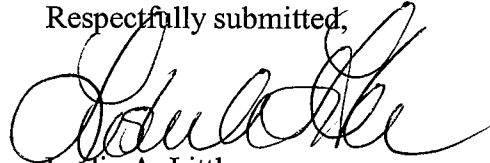
**FISCAL IMPACT**

There is no impact on the General Fund. The full cost of the "Green Machine" and peripherals can be covered by reallocating existing Business and Waterfront Improvement Project (BWIP) funding. The cost of acquiring the "Green Machine" is \$24,631.88, which includes the machine itself, a trailer for transport, delivery to West Alameda, and training for the operator.

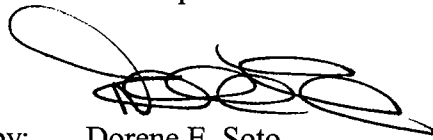
**RECOMMENDATION**

The City Manager recommends that City Council adopt a Resolution authorizing open market purchase from Allied Sweepers, Inc., pursuant to Section 3-15 of the Alameda City Charter, for purchase of "Green Machine" street cleaning equipment.

Respectfully submitted,



Leslie A. Little  
Development Services Director



by: Dorene E. Soto  
Manager, Business Development Division

JMF/LAL/DES/SGR:rv

cc: West Alameda Business Association  
William C. Norton, Interim City Manager

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

AUTHORIZING OPEN MARKET PURCHASE FROM  
ALLIED SWEEPERS, INC.  
PURSUANT TO SECTION 3-15 OF THE ALAMEDA CITY CHARTER  
OF 'GREEN MACHINE' SIDEWALK CLEANING EQUIPMENT

WHEREAS, there are funds available in the FY 2004-2005 Business and Waterfront Improvement Project budget; and

WHEREAS, the "Green Machine" is a unique piece of street cleaning equipment and no advantage could be realized by attempting to bid out its purchase contract; and

WHEREAS, section 3-15 of the City Charter provides that City Council, by four affirmative votes, can authorize an open market purchase if it determines that the materials or supplies can be purchased at a reasonable price in the open market.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Alameda, pursuant to Section 3-15 of the City Charter, the Development Services Department, in cooperation with the Finance Director, is hereby authorized to purchase the "Green Machine" and associated peripherals from Municipal Maintenance Equipment, the exclusive distributor of the "Green Machine" from Applied Sweepers.

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

Resolution #4-I CC  
1-4-05

Approved as to Form

*J. H. [Signature]*  
CITY ATTORNEY

# **CITY OF ALAMEDA MEMORANDUM**

Date: December 20, 2004

To: Honorable Mayor and  
Councilmembers

From: James M. Flint  
City Manager

Re: Recommendation to Adopt a Resolution Approving Parcel Map No. 8401 (2340 and 2350  
North Loop Road)

---

## **BACKGROUND**

On November 16, 2004 the City Council, per Resolution No.13783, approved Tentative Parcel Map No. 8401, a one-lot subdivision consisting of one parcel of 3.44 acres for fifteen (15) commercial condominium units. The parcel is located at 2340 and 2350 North Loop Road.

## **DISCUSSION/ANALYSIS**

The final parcel map has been reviewed and determined to be technically correct and in substantial conformance with the approved tentative parcel map and conditions of approval. The site is currently under construction with approved permit plans for two industrial/office space commercial buildings and associated parking lot and landscaped improvements. The subdivider, Venture Commerce Center – Alameda, will file a condominium plan and covenants, conditions and restrictions (CC&R's) separate from the parcel map as allowed and in accordance with Section 66427(b) of the State of California Subdivision Map Act. The CC&R's will include condition #5, declaration of easements, and condition #8, urban runoff/drainage, of the City Council resolution. There are no new public easements required, as all the improvements are private.

The applicant has deposited sufficient funds to cover charges for the review and a mylar copy of the recorded Parcel Map.

## **BUDGET CONSIDERATION/FINANCIAL IMPACT**

Approval of the tentative parcel map and resolution does not affect the General Fund.

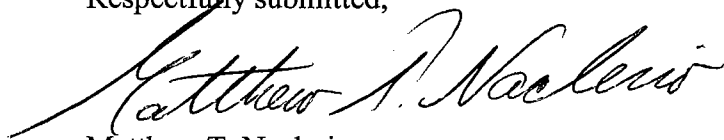
Honorable Mayor and  
Councilmembers

Page 2  
December 20, 2004

RECOMMENDATION

The Interim City Manager recommends that the City Council, by motion, adopt a resolution approving Parcel Map No. 8401 (2340 and 2350 North Loop Road).

Respectfully submitted,



Matthew T. Naclerio  
Public Works Director



By: Ed Sommerauer *by gc*  
Associate Civil Engineer

MTN:ES:gc

G:\PUBWORKS\PWADMIN\COUNCIL\2005\010405\cc Final Parcel Map 8401.doc

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CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

APPROVING PARCEL MAP NO. 8401  
(2340 AND 2350 NORTH LOOP ROAD)

WHEREAS, Tentative Parcel Map No. 8401 was approved by the City Council per Resolution No. 13783 on November 16, 2004; and

WHEREAS, Parcel Map No. 8401 was found in compliance with the California Environmental Quality Act (CEQA) that an Environmental Impact Report (EIR) for the Harbor Bay Business Park, including this site, was approved and pursuant to CEQA Section 15162, no new significant environmental impacts have been identified, nor have mitigation measures previously found to be infeasible become feasible since the EIR was adopted; therefore, no additional review pursuant to CEQA is required; and

WHEREAS, the Public Works Department has reviewed Parcel Map No. 8401 and has proposed a number of Conditions which have been incorporated as Conditions in City Council Resolution No. 13783.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Alameda, pursuant to Section 30-81.8 of the Alameda Municipal Code, hereto accepted and conditionally approved by the Planning Board and City Council, is hereby approved and permission is given to the subdivider to record same, based upon the findings and subject to the conditions set forth in City of Alameda Council Resolution No. 13786.

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

Resolution #4-J CC  
1-4-05

Approved as to Form

*J. Hammer*  
CITY ATTORNEY

**CITY OF ALAMEDA**  
**MEMORANDUM**

Date: December 28, 2004

To: Honorable Mayor and Council Members

From: James M. Flint  
Interim City Manager

Re: Recommendation to Adopt Resolution Reappointing T. David Edwards as Trustee to the  
Alameda County Mosquito Abatement District Board

---

BACKGROUND

The Alameda County Mosquito Abatement District Board is composed of 14 members, one member from each city and one member from the County-at-large. Mr. T. David Edwards has served on the District Board since 1987. His term expires January 3, 2005.

DISCUSSION/ANALYSIS

Mr. Edwards has served on the District Board for almost 18 years. His active participation is a great asset to the District and the City of Alameda. Mr. Edwards has agreed to serve another two-year term. His new term will expire January 2, 2007.

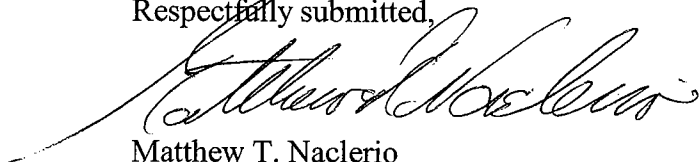
BUDGET CONSIDERATION/FINANCIAL IMPACT

Not applicable.

RECOMMENDATION

It is recommended Council adopt the Resolution reappointing T. David Edwards as Trustee to the Alameda County Mosquito Abatement District Board for a two-year term representing the City of Alameda by motion and direct the City Clerk to forward a certified copy of the Resolution to the District.

Respectfully submitted,



Matthew T. Naclerio  
Public Works Director

MTN:al

G:\PUBWORKS\PWADMIN\COUNCIL\2005\010405\MOSQUITO ABATEMENT APPT 12-28-04

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CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

REAPPOINTING T. DAVID EDWARDS  
AS TRUSTEE OF THE  
ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT

BE IT RESOLVED by the Council of the City of Alameda that T. David Edwards be, and he is hereby, reappointed as a member of the Board of Trustees of the Alameda County Mosquito Abatement District, to represent the City of Alameda, for a two-year term beginning January 4, 2005.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Board of Trustees of the Alameda County Mosquito Abatement District.

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the \_\_\_\_ day of \_\_\_\_\_, 2005, by the following vote to wit:

AYES:

NOES;

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

*J. H. H. H.*  
CITY ATTORNEY

# CITY OF ALAMEDA

## MEMORANDUM

Date: December 29, 2004

To: Honorable Mayor and  
Councilmembers

From: James M. Flint  
City Manager

Re: Reconsideration of Introduction of Ordinance Amending the Alameda  
Municipal Code Regarding Sewer Services Charges and Payments in Lieu of  
Taxes as Return on Investments in Enterprise Funds

### BACKGROUND

Alameda Municipal Code Section 3-28.9 was adopted September 21, 1993. This section establishes a rate equal to one-percent (1%) of fixed assets in each of the enterprises of the City of Alameda as of June 30<sup>th</sup> of the prior fiscal year. This rate generates approximately \$1.2 million per fiscal year. The purpose of a payment in lieu of taxes (PILOT) is to replace property taxes that would otherwise be provided if said property were owned by a private entity.

On August 17, and September 7, 2004, Council received a recommendation to introduce an ordinance that would implement a change in assessment methodology of the Payment in Lieu of Taxes (PILOT) and institution of a Return on Investment (ROI). The Council requested and received a presentation of alternatives at the September 7<sup>th</sup> meeting.

### DISCUSSION/ANALYSIS

During the budget discussion process, Council reviewed various revenue alternatives. An increase to the rate of the PILOT was recommended as one of the revenue strategies to close the General Fund budget "gap" (difference between revenues and expenditures). The Council, by consensus, agreed to consider the proposed increase from 1% of fixed assets to 1.5% of fixed assets.

After further review by legal counsel, it was recommended that the basis of the PILOT be amended to use different bases for the Sewer Enterprise than for Golf or Alameda Power & Telecom (Alameda P&T) in order to conform to requirements of Proposition 218 adopted in 1997. The PILOT would be changed to the following:

- Sewer Enterprise 1% of fixed assets as of the preceding June 30<sup>th</sup>
- Golf/Alameda P&T 1% of fixed assets as of June 30, 1993, adjusted for the lesser of Consumer Price Index (CPI) or 2%

Further, it was recommended that a new element be added called Return on Investment (ROI). This methodology has been tested and can be applicable to Alameda P&T and the Golf Enterprise. The PILOT methodology adjusts 1993 assets for inflation whereas the ROI methodology uses the current book value of assets and accounts for the additions and deletions to assets each year. These changes and the inclusion in the proposed ordinance of the exemption procedures for the Sewer enterprise are necessitated by the requirements of Proposition 218 and address issues unique to the Sewer enterprise.

The departments/enterprises assessed the PILOT are Golf, Sewer and Alameda P&T. The ROI is applicable to Golf and Alameda P&T. Each of the responsible department heads has reviewed the proposed changes and has indicated that this rate increase can be accommodated.

Issues raised at the earlier Council meeting are discussed below:

*Why not eliminate a charge to the Sewer fund and charge more than 1% to the other enterprise funds to replace the E-911 Fee?*

As originally proposed, the funds would make payments as follows:

	PILOT 1.0%	ROI 1.0%	TOTAL	Enterprise Budgets 04-05	Over/(short)
Sewer	527,046	-	527,046	465,912	61,134
AP&T	384,421	781,091	1,165,513	739,000	426,513
Golf	<u>160,758</u>	<u>185,576</u>	<u>346,334</u>	<u>161,000</u>	<u>185,334</u>
	1,072,226	966,667	2,038,893	1,365,912	672,981
Budget 05 *			1,895,000	-	
(Short)/over			143,893		

\*Note: this includes the original \$1.27 million plus the additional \$625,000 supplemental amount.

The question as posed (e.g., replace the proposed E-911 Fee and eliminate the payment from the sewer fund) would require payments as follows:

	PILOT 1.0%	ROI 3.0%	TOTAL	Enterprise Budgets 04-05	Over/(short)
Sewer		-		465,912	(465,912)
AP&T	384,421	2,343,274	2,727,695	739,000	1,988,695
Golf	<u>160,758</u>	<u>556,727</u>	<u>717,486</u>	<u>161,000</u>	<u>556,486</u>
	1,072,226	2,900,001	3,445,181	1,365,912	2,079,269
Budget 05 *			3,297,000		
(Short)/over			148,181		

Budget = \$1.27million In Lieu fees + \$625,000 new In lieu fees + \$1.402 million E911 Fee replacement.

In attempting to substitute an ROI fee for the E-911 fee, an additional \$2.0 million would be required from Alameda P&T and an additional \$556,486 would be required from Golf. These amounts represent 3.2% and 10.3% respectively of current revenues. Both enterprises have reduced costs to accommodate the increase in PILOT from 1% to 1.5% as had been proposed during the budget workshops and included in the adopted budget. An increase of the size required to produce the additional \$2.0 million (\$1.4 million in E-911 fee and \$625,000 in PILOT) in one fiscal year would have a substantial and likely adverse impact on the current rate structure of both enterprises. Also, additional costs of this nature will have a substantial impact on the competitive position of both enterprises, results that could be devastating in nature.

As a point of comparison, the following chart provides a summation of amounts currently being paid to the general fund by both enterprises:

	<u>PILOT</u>	<u>Allocation</u>	<u>Trsf/Surchg</u>	<u>Total</u>	<u>% of Revenues</u>
AP&T	\$ 739,000	\$655,491	\$ 2,500,000	\$3,894,491	6.70%
Golf	\$ 161,000	\$383,723	\$ 662,321	\$1,207,044	21.86%

With the imposition of the 3% ROI as shown above, the following would be the summation of amounts to be paid to the general fund by both enterprises:

	<u>PILOT</u>	<u>Allocation</u>	<u>Trsf/Surchg</u>	<u>Total</u>	<u>% of Revenues</u>
AP&T	\$2,727,695	\$ 655,491	\$2,500,000	\$5,883,186	9.90%
Golf	\$ 717,486	\$ 383,723	\$ 662,621	\$1,763,830	31.93%

Additional facts that need to be considered in this discussion are:

- Alameda P&T is assuming responsibility for the street light system with no change in the streetlight rate (MU2) over two fiscal years. This will result in cost savings for the general fund and additional annual costs of \$300,000 for Alameda P&T.
- Alameda P&T collects Utility Users taxes and franchise fees and returns those funds to the City's General Fund.
- In addition to these costs, any additional fees over those accommodated by cost reductions, may result in the need to increase rates sooner than otherwise expected. For instance, at the same time that Alameda P&T is experiencing pressure to lower rates from PG&E (which is lowering rates for its commercial customers), Alameda P&T would also be subject to conflicting pressure to increase rates to accommodate a higher ROI than originally budgeted. Part of the "return" that Alameda P&T provides to the City is the lower electric rates its citizens and businesses receive. Customer savings would be reduced significantly if Alameda P&T raises its rates.

- The Golf complex experienced approximately 19,000 fewer rounds than had been anticipated during FY04 resulting in less revenue being collected. An additional assessment at this time may move the rate beyond the local area demand resulting in even fewer rounds and less revenue.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

The budget, as adopted, included the additional revenue from the PILOT of \$625,000. The budgets of all three enterprises (Sewer, Alameda P&T and Golf) were adopted to accommodate this increase for this budget year. The impact on the competitiveness of the two enterprises would seem to preclude implementation of the higher ROI rate.

#### MUNICIPAL CODE CROSS SECTION

Sections 3-28.9 Payment In-Lieu of Taxes (PILOT), Section 3-28 is amended to add Section 3-28.10 Return on Investment in Enterprise Funds. Section 18-4 is amended to add the Exemptions for Sewer services.

#### RECOMMENDATION

The City Manager recommends introduction and adoption of the ordinance amending the Alameda Municipal Code regarding sewer services charges and payments in lieu of taxes as return on investments in other enterprise funds. It is further recommended that this action be reviewed after the two-year budget cycle to determine the need to continue the collection of the added funds.

Respectfully submitted

James M. Flint  
City Manager

By:   
Juelle-Ann Boyer  
Chief Financial Officer

JAB:dl

G:\FINANCE\COUNCIL\011805\PILOT report .doc

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_  
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING SUBSECTION 3-28.9 (PAYMENT IN-LIEU OF TAXES – (PILOT); ADDING A NEW SUBSECTION 3-28.10 (RETURN ON INVESTMENT IN ENTERPRISE FUNDS) OF SECTION 3-28 (PAYMENT OF TAXES) OF CHAPTER III (FINANCE AND TAXATION) AND ADDING A NEW SUBSECTION 18-4.10 (EXEMPTIONS) OF SECTION 18-4 (SEWER SERVICE CHARGE) OF ARTICLE 1 (SEWERS) OF CHAPTER XVIII (SEWER AND WATER)

BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by amending Subsection 3-28.9 (Payment In-Lieu of Taxes – PILOT) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) to read as follows:

**3-28.9 Payment In-Lieu of Taxes (PILOT).**

City Enterprise Funds shall annually pay one (1%) percent of fixed assets in lieu of taxes. The basis for the tax shall be the value of fixed assets at June 30<sup>th</sup> of the preceding year for the sewer fund and, for all other enterprise funds, the value of fixed assets as of June 30, 1993 adjusted annually for inflation since that date in the amount of the lesser of 2% or the increase in the Consumer Price Index for All Urban Consumers for the San Francisco Bay Area published by the Bureau of Labor Statistics of the United States Department of Labor or any successor to that index.

Section 2. The Alameda Municipal Code is hereby amended by adding a new Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) to read as follows:

**3-28.10 Return on Investment in Enterprise Funds.**

As permitted by *Hansen v. City of San Buena Ventura*, 42 Cal.3d 1172 (1986), each of the city's enterprise funds, other than the sewer service fund, shall make an annual payment to the General Fund, as a return on the City's investment in the assets of the enterprise fund, of 1% of the value of its fixed assets as of June 30, 2004 adjusted annually for inflation after that date in the amount of the lesser of 2% or the increase in the Consumer Price Index for All Urban Consumers for the San Francisco Bay Area published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor to that index.

Approved as to Form

CITY ATTORNEY



Section 3. The Alameda Municipal Code is hereby amended by adding a new Subsection 18-4.10 (Exemptions) to Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water) thereof to read:

**18-4.10 Exemptions.**

(a) The sewer service charge is imposed to recover the cost of providing sewer services to those who choose to make use of those services, as evidenced by an active water meter, electric meter, or other evidence of sewer use deemed reliable by the Public Works Director. Any person subject to the charge imposed under this Section may receive a temporary exemption from the sewer service charge imposed by this Section to the extent that he or she can demonstrate to the satisfaction of the Public Works Director that the premises with respect to which the charge is imposed are vacant or, for some other reason, no person made use of sewer services on those premises for at least thirty (30) consecutive days. Evidence that either water or power was not consumed on the premises for that time shall be sufficient evidence of vacancy to justify an exemption for that period of non-use under this subsection.

(b) The Public Works Director may promulgate regulations for the submission, processing, decision, and appeal of such applications for exemption, which regulations shall take effect once published in the manner required by Section 3-14 of the Charter of the City of Alameda for publication of ordinances of the City.

Section 4. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Alameda hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

Section 5. To the extent the provisions of the Alameda Municipal Code as amended by this ordinance are substantially the same as the provisions of that Code in effect prior to the adoption of this ordinance, those provisions shall be construed as continuations of those prior provisions and not as new enactments.

Section 6. This ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage as provided in Section 3-12 of the Charter of the City of Alameda.

\_\_\_\_\_  
Presiding Officer of the City Council

Attest:

\_\_\_\_\_  
Lara Weisiger, City Clerk

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the \_\_\_\_ day of \_\_\_\_\_, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

**CITY OF ALAMEDA**  
**MEMORANDUM**

To: Honorable Mayor and  
Members of the City Council

From: James M. Flint  
City Manager

Date: December 22, 2004

Subject: Introduction of Ordinance to Amend the Municipal Code by Adding a  
New Section 3-91 (City of Alameda Community Benefit Assessment  
Procedure Code) to Article VI (City of Alameda Improvement Procedure  
Code) of Chapter III (Finance and Taxation)

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**BACKGROUND**

In 2000, the West Alameda Business Association (WABA) and Development Services began exploring the Property-Based Improvement District (P-BID) concept for use in the West End. A P-BID is a specific area within which property owners are assessed a fee for a special benefit.

**DISCUSSION AND ANALYSIS**

At its December 7 meeting, Council endorsed the concept of adopting local legislation to facilitate the adoption of a Community Benefit District (CBD) that would function as a P-Bid for the West End.

**BUDGET/FINANCIAL IMPACT**

There is no impact on the General Fund. Redevelopment funds have been budgeted to pay costs associated with the implementation of the Community Benefit District for the West End.

**MUNICIPAL CODE CROSS-REFERENCE**

Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation).

Re: Intro of Ordinance #4-M CC  
1-4-05

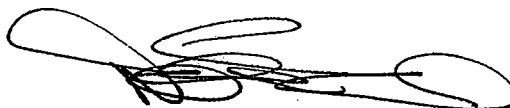
**RECOMMENDATION**

The City Manager recommends the introduction of an Ordinance to amend the Municipal Code by adding a new Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation).

Respectfully submitted,



Leslie A. Little  
Development Services Director



By: Dorene E. Soto  
Manager - Business Development Division

JMF/LAL/DES/SGR:rv

cc: West Alameda Business Association  
Marco Li Mandri, New City America

Attachment

**CITY OF ALAMEDA**  
**MEMORANDUM**

**Attachment**

To: Honorable Mayor and  
Members of the City Council

From: James M. Flint  
City Manager

Date: November 24, 2004

Subject: Adoption of Legislation to Create the Procedure for the Establishment of  
Property-Based Improvement Districts in the City of Alameda

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**BACKGROUND**

In 2000, the West Alameda Business Association (WABA) and Development Services began exploring the Property-Based Improvement District (P-BID) concept for use in the West End. A P-BID is a specific area within which property owners are assessed a fee for a special benefit. Currently, WABA is funded through a Business Improvement Assessment District (BIA) on business owners and operators based on sales, a grant from the City, and its own self-generated revenue. While consultant Marco Li Mandri of New City America did find enough interest to form a P-BID in 2000, the effort was suspended. Earlier this year, the WABA Board voted unanimously to resume the P-BID creation effort. Their vote was based on the belief that with the installation of the new streetscape imminent, the P-BID is needed more than ever and also more likely to be adopted.

**DISCUSSION AND ANALYSIS**

P-BIDs are authorized and described by State law. However, a charter city such as Alameda can adopt its own legislation to apply its own standards for the procedure to create a P-BID. Consultant Marco Li Mandri of New City America is assisting in the P-BID formation process. Each P-BID he has formed in a charter city has been enacted by its own P-BID legislation to allow for two adjustments:

- **The percentage of property owners that must sign the petition to call for an election on the question of whether to call a vote:** State law requires property owners in the proposed district submit a petition signed by those who will pay 50 percent of the assessments proposed to be levied. Because of absentee ownership and the difficulty of getting out-of-town owners to respond, the local enabling legislation would drop to 30 percent.
- **The lifespan of the PBID:** State law sets the life of the P-BID at five years. Five years, is, however, a relatively brief time period and inadequate to show long-term results of having a P-BID in place. This short time span also results in a great deal of time and resources having to be spent again very quickly in the life of the program to get it reauthorized. Consultant Marco Li Mandri recommends changing the period to 20 years.

On September 22, 2004, the WABA Board voted unanimously to move forward with the creation of local enabling legislation that incorporates both of the above modifications with one slight modification to number two above. The Board prefers the local enabling legislation allow the P-BID Task Force, composed of property owners, to determine the lifespan of a P-BID on Webster Street.

On October 21, the Economic Development Commission endorsed the concept of Council adopting local legislation to create a procedure for the formation of P-BIDs, incorporating the two changes previously discussed. If Council adopts the legislation, P-BID formation process could continue in the West End with a P-BID Task Force coordinating the effort. WABA Board member Michael Dugan has agreed to chair the Task Force.

If established, the land area of the proposed P-BID for West Alameda would mirror the current Business Improvement Assessment District boundary and additionally, include the College of Alameda and the land area currently being developed by Catellus (the former FISC property). The P-BID for West Alameda, if established, would be known as the West Alameda Community Benefit District (CBD). While the BIA, which assesses business owners, would be retained, those zones of the Landscape & Lighting District within the Webster Street Business District would likely be dissolved. Thus, a property owner would have one special assessment to pay rather than two. Business owners would continue to pay the BIA. Special local enabling legislation, if adopted, could also be used citywide in the event other areas consider P-BID formation in the future.

*Process for Establishing the West Alameda Community Benefit District*

Once the City Council has enacted the authorizing ordinance, which creates the procedure for the establishment of a P-BID, the following are the "next steps":

- First, the City prepares a Management District Plan and an Engineer's Report, which includes a map of the proposed P-BID, describes the planned program of activities and improvements, estimates the district budget, and states the proposed assessment methodology.
- Next, the City must receive a petition requesting initiation of proceedings to establish the P-BID, which must be signed by owners who will pay at least 30% of the total assessment.
- Upon receipt of the petition, the City Council may adopt a Resolution of Intention, which calls a public hearing on the assessment and commences the mailed notice and majority protest (balloting) proceeding required by Proposition 218.
- At least 45 days prior to the public hearing, the City must mail a notice and assessment ballot to the record owner of each parcel subject to the assessment.
- Assessment ballots may be returned to the City until the close of the public hearing. The City may then tabulate the ballots.

- If the number of ballots returned in support of the assessment (weighed by the amount of the assessment) equals or exceeds the number of ballots returned in opposition to the assessment, then the City Council may adopt a Resolution Establishing the West Alameda Community Benefit District and levy the assessment for the initial year.

**RECOMMENDATION**

The City Manager recommends the adoption of legislation to create the procedure for the establishment of property-based improvement districts in the City of Alameda

Respectfully submitted,

  
Leslie A. Little  
Development Services Director

  
By: Dorene E. Soto  
Manager - Business Development Division

JMF/LAL/DES/SGR:dc

cc: West Alameda Business Association  
Marco Li Mandri, New City America

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_  
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY ADDING  
A NEW SECTION 3-91 (CITY OF ALAMEDA COMMUNITY  
BENEFIT ASSESSMENT PROCEDURE CODE) TO ARTICLE VI  
(CITY OF ALAMEDA IMPROVEMENT PROCEDURE CODE) OF  
CHAPTER III (FINANCE AND TAXATION)

WHEREAS, it is in the public interest to promote the economic revitalization and physical maintenance of the City's business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts; and

WHEREAS, budgetary constraints prevent the City from providing all of the additional public services and improvements requested by or desirable to the stakeholders within each of the City's business districts; and

WHEREAS, the City Council desires to establish a procedure by which property owners in a business district may petition the City Council to initiate proceedings to establish a community benefit district within which the City will levy and collect assessments against real property and/or businesses to finance services and improvements requested by stakeholders; and

WHEREAS, the City Council desires to establish procedures for the establishment and operation of such districts in order to promote the successful implementation of such districts.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by adding a new Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) to Chapter III (Finance and Taxation) to read:

**3-91 CITY OF ALAMEDA COMMUNITY BENEFIT ASSESSMENT  
PROCEDURE CODE**

**3-91.1 Title/Purpose.**

This Section shall be known as the "City of Alameda Community Benefit Assessment Procedure Code" and shall be referred to in this section 3-91 as the "Assessment Procedure."

**3-91.2. Relationship to Other Laws.**

a. This Assessment Procedure is adopted pursuant to Section 1-2(D) of Article I of the Charter of the City of Alameda.



b. Any provisions in this Assessment Procedure which conflict with any general law or act shall prevail over such other provision in connection with any proceedings taken pursuant to this Assessment Procedure.

c. To the extent any proceeding or aspect of a proceeding conducted pursuant to this Assessment Procedure is deemed a municipal affair, any general laws referred to in this Assessment Procedure shall be deemed a part of this Assessment Procedure. To the extent any proceeding or aspect of a proceeding conducted pursuant to this Assessment Procedure is a matter of statewide concern, it is declared to be the intention of the City Council in adopting this Assessment Procedure that the proceedings or aspect thereof be had pursuant to any applicable general law or laws.

d. This Assessment Procedure provides a method of financing certain activities and improvements than is intended to be an alternative to other means to do so. The provisions of this Assessment Procedure shall not affect or limit any other provision of law authorizing or providing for the furnishing of such activities or improvements, or the raising of revenue for these purposes. The City may use the provisions of this Assessment Procedure instead of or in conjunction with any other method of financing part or all of the cost of providing the authorized activities and improvements.

### **3-91.3           Incorporation of State Law.**

a. In forming assessment districts to fund activities and improvements that confer special benefit on property or businesses, the City Council may elect to use the procedures set forth in the Property and Business Improvement District Law of 1994 (California Streets & Highways Code Sections 36600 et seq. (the "PBID Law") as modified by this Assessment Procedure. The City Council shall be bound by, and comply with, applicable state law governing the establishment and operation of property and business improvement districts in all respects not inconsistent with this Assessment Procedure.

b. A property and business improvement district established pursuant to this Assessment Procedure shall be denominated a "Community Benefit District" or "District" and the assessment levied in connection with such a district shall be denominated a "Community Benefit Assessment."

c. Except where otherwise provided in this Assessment Procedure, "Community Benefit District" shall have the meaning given to "Property and Business Improvement District" by Section 36611 of the PBID Law and each reference in the PBID Law to a "Property and Business Improvement District" or a "District" shall be deemed also a reference to a "Community Benefit District."

d. Except where otherwise provided in this Assessment Procedure, "Community Benefit Assessment" shall have the meaning given to "Assessment" by Section 36606 of the PBID Law and each reference in the PBID Law to an "Assessment" shall be deemed also a reference to a "Community Benefit District."

#### **3-91.4. Modification of State Law.**

a. Notwithstanding Streets & Highways Code Section 36621(a) or any other provision of law, the City Council may initiate proceedings to establish a Community Benefit District upon receipt of a petition signed by property or business owners in the proposed district who will pay more than 30 percent of the assessments proposed to be levied. The amount of assessment attributable to property or to one or more businesses owned by the same person that is in excess of 20 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 30 percent of the total amount of assessments proposed to be levied. Where the City Council initiates proceedings pursuant to this subsection, the City Council shall conduct a protest ballot proceeding in accordance with Article XIID of the California Constitution notwithstanding any language to the contrary of Streets & Highways Code Section 36623.

b. Notwithstanding Streets & Highways Code Section 36622(h) or any other provision of law, the City Council may form a district authorized to levy assessments for a term of up to 20 years, except where a longer term is authorized by the PBID Law or other applicable law.

c. Pursuant to Streets & Highways Code Section 2804(a)(2), provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Streets & Highways Code Section 2800 *et seq.*) shall not apply to a Community Benefit District. In establishing a Community Benefit District, the City shall comply with the requirements of Section 19 of Article XVI of the California Constitution.

#### **3-91.5 Severability.**

If any provision of this Assessment Procedure or the application thereof to any person or circumstance shall be held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or any other application of such provision which can be given effect without such invalid provision or application, and to this end the provisions of this Assessment Procedure are declared to be severable.

#### **3-91.6 Limitation of Actions.**

The validity of any initial assessment levied under this Assessment Procedure shall not be contested in any action or proceeding, unless the action or proceeding is commenced within 30 days after the assessment is levied. The validity of any assessment levied after the initial assessment may be contested only for the purpose of challenging (i) the accuracy of the application of any assessment formula to any property, business or person or (ii) the validity of

any change in an assessment formula. Any appeal from a final judgment in the action or proceeding shall be perfected within thirty (30) days after the entry of judgment.”

Section 2. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this Ordinance shall nonetheless remain in full force and effect. The City Council hereby declares that it would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 3. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

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Presiding Officer of the City Council

Attest:

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Lara Weisiger, City Clerk  
City of Alameda

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Lara Weisiger, City Clerk  
City of Alameda

# **CITY OF ALAMEDA**

## **MEMORANDUM**

**DATE:** November 23, 2004

**TO:** Honorable Mayor and Councilmembers

**FROM:** James M. Flint  
City Manager

**RE:** Recommendation to Reappoint Mary Rudge as Alameda's Poet Laureate

### **Background**

In 2002, the City Council created the position of Alameda Poet Laureate. The Poet Laureate is an honorary title given to a person who has demonstrated excellence in the literary arts. Mary Rudge was appointed as the first Poet Laureate of Alameda. She is well qualified and has been very active in promoting poetry throughout the City. The City has contracted with the Alameda City Arts Council (Arts Council) to promote cultural arts programs including the establishment of a Poet Laureate Program.

The appointment term of the Alameda Poet Laureate is two (2) years. The following are some of the goals of the Alameda Poet Laureate:

- Encourage citizens to express their literary creativity.
- Promote and showcase the original work of citizens.
- Assist in creating a community environment where literary talent can thrive and be encouraged.
- Create works of the written word that commemorate special events in the life of the City of Alameda.

The Arts Council, Alameda Free Library, and Alameda Recreation and Parks developed the Poet Laureate Program as one of its primary cultural arts program goals.

### **Discussion/Analysis**

During the past two years, Mary has been involved in many literary activities, contests, and community events which have included the Alameda Island Poets, Art in the Park, Earth Day Festival, Alameda Literati Faire, Peanut Butter and Jam Festival, and

California Federation of Chaparral Poets. Also, she has been involved in coordinating activities in conjunction with the Frank Bette Art Center, Alameda Multicultural Community Center, the Alameda Free Library, and the West End Business Association. Ms. Rudge is very active in literary circles and publishes her own works as often as possible.

In July 2004, the Arts Council convened the selection committee for the second appointment of an Alameda Poet Laureate. The Selection Committee was formed by the Arts Council which included a representative(s) from the Arts Council, the Library staff, and a community literary member. (Please find attached the Selection Committee's full report on the process).

#### **Budget Consideration/Financial Impact**

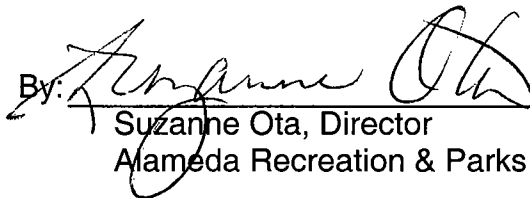
The Alameda Poet Laureate is a voluntary appointment, and there is no fiscal impact to the City's Budget.

#### **Recommendation**

The City Manager recommends that the City Council reappoint Mary Rudge for a second term as the Alameda Poet Laureate.

Respectfully submitted,

James M. Flint  
City Manager

By:   
Suzanne Ota, Director  
Alameda Recreation & Parks

Attachment

JMF:SO:bf

# **Alameda Poet Laureate Recommendations**

## **December 2004-2006**

### **History**

The position of Alameda Poet Laureate was created in 2002 through a proclamation set through by city council. Al Dewitt was a strong catalyst to getting this position established. Our first Poet Laureate, Mary Rudge was appointed and in her two year term she has led and been involved in numerous community projects related to the literary arts.

### **Selection Committee**

The selection committee formed to seek a Poet Laureate for the 2004-2006 term, consisted of four individuals who have a background in writing poetry, are familiar with poetry as literature, have knowledge of current trends in this field, are educators, editors, librarians and/or produce programs in poetry.

### **Committee Members**

Lisa Piatetsky-Alameda City Arts Council , Executive Director

Julia Park- Alameda Sun, Editor

Patti Itano-Alameda Free Library, Librarian

Aida Merriweather -Alameda Free Library, Librarian

### **Search**

Articles and calendar notices appeared in local newspapers calling for applications for the Laureate Position. Both the Alameda City Arts Council and Alameda Free Library were sites to pick up applications. The applications were also available by mail and at a number of poetry readings and other similar gatherings. Known local poets with potential to be candidates were encouraged to apply when attending writers groups and classes. Candidates were asked to complete the application as well as submit 6 poems.

### **Screening Process**

The committee convened in August 2004 to evaluate each submission. Each committee member was asked to hold any comments or discussion until after they read each page of each applicant's packet and wrote their comments on the evaluation sheets with a score in each criteria area.

When all applications had been read and evaluated by each committee member. We began to discuss our findings.

### **Evaluation and Recommendations**

Only three people submitted applications for Poet Laureate. This gave us a very small candidate pool. The committee felt while some of the applicants showed strengths in some areas there was no strong candidate with a level of understanding and skill of the mechanics of poetry to bestow the honor of Poet Laureate upon.

We felt a candidate needed to have the ability to work with both writers who are new to writing poetry as well as be a role model to established writers and must demonstrate a high quality of skill in their writing. They need to have adequate literary experience including publication in respected journals or other publications, awareness of and involvement with current events, organizations and trends in poetry, academic experience and well thought out ideas for evolving poetry within our community. A candidate also needs to have the ability to judge many styles of poetry.

The committee found that there was not the caliber of work nor an acceptable grasp of the fundamentals of the job of Poet Laureate to warrant selection of any of the three applicants.

The committee was uncomfortable with leaving the position unfilled. It had been established in our first year that a Laureate could serve for more than one term. Rather than leave the position unfilled we discussed asking Ms. Rudge to stay on for another two year term. The committee agreed unanimously to ask to extend Ms. Rudge's term for the December 2004 - 2006 term. Mary Rudge is willing to continue for the next term of two years.

### **Recommendation**

The Poet Laureate Committee recommends that Mary Rudge be awarded the Honor of Poet Laureate for a second term December 2004 - December 2006.

### **Submitted 10/4/04**

Lisa W Piatetsky

Alameda City Arts Council, Executive Director



# City of Alameda

## Memorandum

Date: December 20, 2004

To: Honorable Mayor and  
Councilmembers

From: James M. Flint  
City Manager

Re: Public Hearing to consider an Appeal of the Planning Board's denial of Major Design Review DR04-0013 and Variances V04-0005, V04-0015, V04-0016, V04-0017 to permit the construction of a rear deck and garage addition that was completed without City permits. The rear deck measures approximately thirty inches in height from grade to the top surface of the deck and is built up to the south (left side) and west (rear) property lines. The garage addition is an expansion of the existing single-family dwelling up to the north (right side) and west (rear) property lines. The Applicant is requesting four (4) Variances to permit the construction of the work completed without permit including: 1) Variance to AMC Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height; 2) Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings; 3) Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards; 4) Variance to AMC Subsection 30-4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards. The site is located within an R-4, Neighborhood Residential Zoning District. Appellant/Property Owner(s): Fred & Ursula Hoggenboom of 913 Oak Street.

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### BACKGROUND

This code compliance case commenced in response to a citizen complaint that construction had occurred without City permits on the property located at 913 Oak Street. After Staff investigation and an exterior site inspection that revealed unauthorized construction of an attached garage and rear deck, an abatement notice was issued by the City's Code Compliance Division requesting the Property Owners to submit the appropriate application and materials for Planning and Building Staff review. Code Compliance Staff met with the Property Owners of 913 Oak Street on January 5, 2004 and advised that the project either be redesigned to comply with City standards or if appropriate justification can be provided to apply for and request the necessary Variances to permit the unauthorized construction of the garage addition and rear deck.

A Major Design Review and Variance application was submitted to the Planning and Building

Honorable Mayor and  
Councilmembers

December 20, 2004  
Page 2

Department on February 2, 2004. Staff reviewed the application and materials submitted for project completeness and compliance with City standards. During the planning review process, Staff met with the Applicant and Property Owner, Fred Hoggenboom, on several occasions to discuss the Planning review process and suggest design alternatives for project compliance with City standards. The Property Owners disagreed with Staff's recommendations and decided not to redesign the project to comply with regulations.

Staff was unable to recommend approval to the Planning Board of the Variance requests and Major Design Review because the project can be redesigned and reconstructed to comply with code requirements. The project was scheduled for Planning Board hearing on September 27, 2004, but was continued to the October 11, 2004 meeting at the Property Owner's request. On October 11, 2004, the Planning Board unanimously denied all Variance requests and Major Design Review for the project.

The Appellants are appealing the Planning Board's October 11, 2004 decision to deny the Variances and Major Design Review (V04-0005, V04-0015, V04-0016, V04-0017, DR04-0013). The Appellants commented in their basis of appeal a concern that all the facts surrounding their case were not presented and that the Planning Board's action was based on a Staff report that was flawed and biased. Additionally, the Appellant identified several other reasons for the basis of their appeal in a letter that was submitted as an attachment with the Petition for Appeal, dated October 21, 2004.

#### DISCUSSION/ANALYSIS

Staff has responded to the Appellants basis of appeal and has provided analysis to this end in Attachment No. 1 of this report.

#### BUDGET CONSIDERATIONS/ FISCAL IMPACT

There will be no additional funding in the Planning & Building Department budget necessary relating to Planning activities for this project.

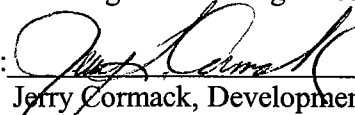
#### RECOMMENDATION

The City Manager recommends that the City Council conduct a public hearing, review all pertinent testimony and information then act to uphold the Planning Board denial of Variances V04-0005, V04-0015, V04-0016, V04-0017 and Major Design Review DR04-0013 by adopting the draft City Council Resolution included in the agenda packet.

Respectfully submitted,

Gregory L. Fuz  
Planning and Building Director

By:



Jerry Cormack, Development Review Manager

ATTACHMENTS:

1. Petition of Appeal (with attachments) from Fred and Ursula Hoggenboom, received October 21, 2004
2. Staff's Discussion and Analysis of Appellants' Bases of Appeal.
3. Planning Board Staff Report (with attachments), October 11, 2004.
4. Planning Board Resolution No. PB-04-60 Denying Variances V04-0005, V04-0015, V04-0016, V04-0017 and Denying Major Design Review DR04-0013.
5. Planning Board Minutes for Item 8-A, October 11, 2004.
6. Project Plans, dated September 15, 2004.
7. Correspondence received after distribution of the Planning Board Packet on September 23, 2004.
  - a. Correspondence presented at Planning Board Meeting of October 11, 2004 by Applicant, Italo Calpestri.
  - b. Letter by Staff addressed to applicant, dated October 12, 2004.
  - c. Letter submitted by Christopher Buckley of Alameda Architectural Preservation Committee, dated October 11, 2004 (opposed).
  - d. Staff correspondence to Planning Board re: Late Communication, dated October 7, 2004.
  - e. Letter and photographs submitted by Property Owners, Fred and Ursula Hoggenboom, dated October 7, 2004.
  - f. Letter and attachments submitted by Barbara Kerr, received September 26, 2004 (opposed).
  - g. Letter submitted by Eric Lee and Stacie Kissiar, received September 25, 2004 (support).
  - h. Nine (9) form letters signed by residents, received September 25, 2004 (support).
  - i. Letter submitted by Property Owners, Fred and Ursula Hoggenboom, received September 23, 2004 (request item to be continued to Planning Board meeting 10/11/04).
8. Letter submitted by Karen Gravina, received September 20, 2004 (support).

cc: Fred and Ursula Hoggenboom, Property Owners  
Italo Calpestri, Applicant  
President Cunningham, Planning Board

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PETITION FOR APPEAL

TO: CITY OF ALAMEDA  
City Hall  
2263 Santa Clara Avenue #190  
Alameda CA 94501

City Council  
(Planning Board or City Council)

This petition is hereby filed as an appeal of the decision of the  
Planning Board

(Planning Director/Zoning Administrator/Planning Board/Historical Advisory Board)

which Denied Variance Request & Design Review for  
(Denied/Granted/Established Conditions)

DR04-0013  
04-005, 15, 16, 17  
(Application Number)

at 413 Oak Str. for a  
(Street Address)

☒ Design Review ☐ Use Permit ☒ Variance  
☐ Subdivision Map ☐ Rezoning ☐ Planned  
Development  
☐ Planned Development/Amendment ☐ Other \_\_\_\_\_  
on \_\_\_\_\_ (Specify Date) (Specify)

The basis of the appeal is: we would like to appeal the decision  
of the planning board in regards to the above application due to  
the following facts and issues involved in this case.

see attached papers

(If more space is needed, continue on the reverse side or attach additional sheets.)

Fred Hogenboom  
(Name)

413 Oak Str.  
(Address)

Alameda, Ca.  
(City/State)

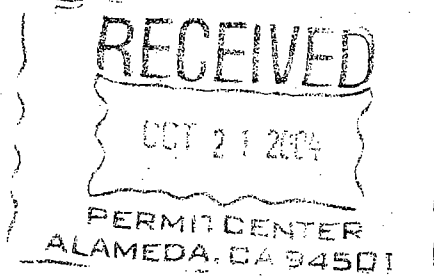
510 521-7215  
(Telephone - Work)  
510 865-3353  
(Telephone - Home)

\*\*\*\*\*  
(For Office Use Only) Date Received Stamp

Received By:  
Receipt No.:

Nancy Suggs  
DR04-0013

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The planning boards denial of the variances vo4-005-15-16-17. was based on a staff report which was flawed and biased.

The research done for the report in itself is very generalized in its answers to the questions required for a variance and do not reflect a true look at the structure involved and the surroundings of the neighborhood. It also leaves out some of the health issues involved in this and probably other cases.

In the case involved regarding the deck at my residence it was build to a configuration to aide my wife in access to our theraputic spa, and backyard deck.

The deck is at a height of 28 inches at the house back door to eliminate the stairs required if it were lower level.

My wife has had 3 hip replacements and 2 back surgeries and stairs are hard on her.

By locating the stairs at the side of the house it is easier for her as they are not used that often.

If the staff recommendations were followed to lower the deck, would put stairs back at the rear door and at the side of the house as 12 inch deck height by code still needs two steps.

The second choice of cutting 3 ft from the rear and side of the deck would make the deck completely unusable, due to that the deck would be unable to support the theraputic spa, due to it's smaller size.

I feel that if the planning board had come to see the deck they would come to the same conclusion.

The statements made that there is no practical difficulty or unnecessary hardship as to deprive the applicants of substantial property rights possessed by other owners of property in the same district is in correct.

The direct neighbor to the south has a deck build of similar situation, that is on two property lines and which was signed of by the building department.

I feel this is disturbing as it shows bias and have brought this to attention of buiding department etc, but believe the former owner Barbara Kerr may have had influence there.

The statement that a deck at 28 inches has potential to increase activity and noise makes no sense.

If the same no of people congregate on the same space, it would generate the same noise,

thus this argument has no merit, we all enjoy the outdoors different but a deck generating noise!

The stairs at the south side of the property to acces the backyard are the same or similar to stairs build throughout Alameda.

The statement taken from the staff repord by the planning board that stairs increase traffic and noise makes no sense.

In conclusion the statements made by made by staff and used by planning board as to increased noise and traffic cannot be proven to be related to height of the deck.

The constuction of the deck in its present configuration was done ,one for health reasons, two, to utilizes the small size of the yard as efficiently as possible.

The comments made by board member Cunningham, that we should have build a ramp in front of the house instead of a garage showed the lack of compassion and the unformed nature of the decision made.

There had been an invitation made for the board members to view the property, nobody did instead they drove by, you can not see the back from the street.

We feel that the information used to make the decision was flawed and hereby request an appeal.

Thank you , sincerely: date: 10-21-04.

*Handwritten signatures:*  
- A large signature, possibly "Gerald H. [unclear]".  
- A signature below it, possibly "M. [unclear]".  
- A signature to the right, possibly "Loren [unclear]".

RECEIVED

OCT 21 2004

PERMIT CENTER  
ALAMEDA, CA 94501

The denial of the variances for the garage, rear and side set backs and configuration of the garage by the board again were based on the staff report, which was in ~~correct in many ways~~.

The garage in its present configuration mirrors the same as the direct neighbor at 917 oakstreet in that it is also on the property line on the west and north side and also attached to the house.

So as to make the statement that it would not deprive me of the same right as my neighbors is incorrect, I can provide pictures if requested.

The statements that were taken from the staff report that the building blocks views and sunlight would only be true if the building had no adjacent buildings, but on the west side is a building, on the north side are garages and a patio cover, see pictures already submitted.

The shadow fall of a building that is of this height would only cover at most 3ft and would land on the roofs of the garages and patio cover, again not researched correctly.

Roof configuration by design was to have low impact, match existing building and utilizes the most space.

The denials by the planning board were based on a staff report which as shown to have defined flaws in it.

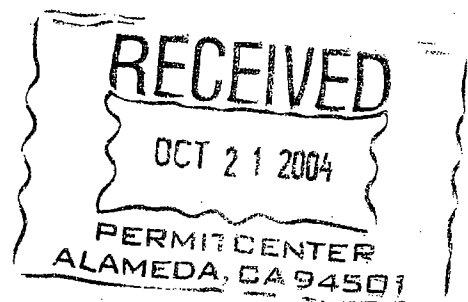
I believe the board didn't have or want to have all the facts to make an informed decision on my case.

So I am hereby appealing their decision to the City Council.

I hope the council will give an unbiased decision to grant my variances, as I only wish to improve my property and enjoy it as I have for the past 24 years.

Thank you, sincerely:

date : 10-21-04.



Attachment No. 1 "Discussion/Analysis of Appellants' Bases of Appeal"

Verbatim language of issues raised and presented in Petition for Appeal by Appellant are provided below in "bold" type with Staff's response following in "plain" type.

**APPELLANT: The denial of the variances for the garage, rear and side set backs and configuration of the garage by the board again were based on the staff report, which was in correct in many ways.**

STAFF: The Staff report was prepared with reference to City and County records, plans submitted by the applicant, and a site inspection for verification of dimensions and location of construction.

**APPELLANT: The garage in its present configuration mirrors the same as the direct neighbor at 917 oakstreet in that it is also on the property line on the west and north side and also attached to the house. So as to make the statement that it would not deprive me of the same right as my neighbors is incorrect, I can provide pictures if requested.**

STAFF: Construction of an accessory structure is permitted up to the interior side and rear property lines, as long as the structure is located a minimum distance of seventy-five feet (75') from the front property line pursuant to AMC Sec. 30-5.7(f)(3). In this case, the garage located at 913 Oak Street is attached to the main dwelling and is therefore subject to the setback requirements for main dwellings. If the garage were detached from the main dwelling and constructed as an "accessory structure" pursuant to AMC Sec. 30-2, the structure could then be located up to the interior side and rear property lines. Additionally, Variances are reviewed individually, and findings to support the granting of a Variance must be based on the subject property's physical circumstances and not the design or location of structures on neighboring properties. Staff is unable to make the finding that there are extraordinary physical circumstances that differentiate 913 Oak Street from its neighbors because the parcel is of a larger size than most of the surrounding properties and is similar in shape and topography.

**APPELLANT: The statements that were taken from the staff report that the building blocks views and sunlight would only be true if the building had no adjacent buildings, but on the west side is a building, on the north side are garages and a patio cover, see pictures already submitted. The shadow fall of a building that is of this height would only cover at most 3ft and would land on the roofs of the garages and patio cover, again not researched correctly.**

STAFF: Detached accessory buildings may be adjacent to the property line, but when the addition is incorporated into the main building it must maintain the setbacks from the property line for main structures. The garage cannot be approved without a Variance because it is attached to the main dwelling. Attaching the garage to the main dwelling creates the situation where now the main dwelling is built up to the side and rear yard property lines with no setback. Additionally, open space is minimum in the vicinity due to the density of surrounding structures. If the garage were detached from the main dwelling it would exceed the maximum height regulations for accessory buildings and a Variance would be needed to permit the current height of the garage. However, a fully compliant garage could be built to meet the City's regulatory standards, as was noted on Page 11 of the Staff Report to the Planning Board.

**APPELLANT: Roof configuration by design was to have low impact, match existing building and utilizes the most space. The denials by the planning board were based on a staff report which as shown to have defined flaws in it.**

STAFF: Yes, a roof that is designed to have minimal impacts to adjacent properties and an addition that integrates well with the design of the main dwelling are goals of Design Review. However, the configuration of the roof is not the issue in this case, and the aluminum siding installed on the garage walls that face the adjoining properties is inconsistent with the wood shingled siding of the main dwelling. Additionally, the neighbors noted during the public comment period that the building was draining across property lines and onto the adjacent properties.

**APPELLANT: The planning boards denial of the variances v04-005-15-16-17. was based on a staff report which was flawed and biased. The research done for the report in itself is very generalized in its answers to the questions required for a variance and do not reflect a true look at the structure involved and the surroundings of the neighborhood. It also leaves out some of the health issues involved in this and probably other cases.**

STAFF: The staff report addressed the code violations at the project location of 913 Oak Street. The report was written after: examining the permit history, reviewing the plans submitted, visiting the project site, making suggestions for compliance with AMC standards, analyzing neighbors concerns and support for the project, and considering surrounding land uses. Additionally, the report was prepared and formatted in conformance with department standards and policy. Staff sympathizes with the health concerns and issues raised by the Appellant. However, Variance findings relate to the property in question and not the persons living on it. Consequently, the findings and report do not discuss the medical or personal constraints suffered by the property owners. The Planning Board also acknowledged the health issues suffered by the property owners, but the Planning Board also noted that alternative design solutions could be made to respond to these health issues.

**APPELLANT: In the case involved regarding the deck at my residence it was built to a configuration to aide my wife in access to our theraputic spa, and backyard deck. The deck is at a height of 28 inches at the house back door to eliminate the stairs required if it were lower level. My wife has had 3 hip replacements and 2 back surgeries and stairs are hard on her. By locating the stairs at the side of the house it is easier for her as they are not used that often.**

STAFF: Staff is sympathetic to this testimony; however, Variance findings are based on the physical constraints of the property and Staff has no authority to consider the health related issues of the persons living on the property when determining these findings. The applicant may choose to provide uncovered disabled access ramps to accommodate his wife's medical condition. Disabled access ramps may encroach into any required front, side or rear yard as long as the access structure provides continuous access from the street or parking area to an entrance of the building and the encroachment shall be the minimum necessary to provide safe and adequate access and shall be subject to Design Review, pursuant to AMC Sec. 30-5.7(j).

**APPELLANT: If the staff recommendations were followed to lower the deck, would put stairs back at the rear door and at the side of the house as 12 inch deck height by code still needs two steps. The second choice of cutting 3 ft from the rear and side of the deck would make the deck completely unusable, due to that the deck would be unable to support the theraputic spa, due to it's smaller size. I feel that if the planning board had come to see the deck they would come to the same conclusion. The statements made that there is no practical difficulty or unnecessary hardship as to deprive the applicants of substantial property rights possessed by other owners of property in the same district is in correct.**

STAFF: Please see Staff response above.



**APPELLANT:** The direct neighbor to the south has a deck build of similar situation, that is on two property lines and which was signed of by the building department. I feel this is disturbing as it shows bias and have brought this to attention of building department etc, but believe the former owner Barbara Kerr may have had influence there.

STAFF: Comment noted.

**APPELLANT:** The statement that a deck at 28 inches has potential to increase activity and noise makes no sense. If the same no of people congregate on the same space, it would generate the same noise, thus this argument has no merit, we all enjoy the outdoors different but a deck generating noise!

STAFF: When an activity area is created there is always a potential to increase noise levels and reduce privacy to adjacent properties. In this case, the applicant proposes to maintain the existing deck at a height that is not permitted under the current regulatory standards. The AMC regulates setbacks for decks with reference to the deck height because a raised deck has the potential to elevate activity and noise above permitted barrier heights and create privacy and noise impacts to adjacent properties.

**APPELLANT:** The stairs at the south side of the property to access the backyard are the same or similar to stairs build throughout Alameda. The statement taken from the staff report by the planning board that stairs increase traffic and noise makes no sense. In conclusion the statements made by staff and used by planning board as to increased noise and traffic cannot be proven to be related to height of the deck. The construction of the deck in its present configuration was done, one for health reasons, two, to utilize the small size of the yard as efficiently as possible.

STAFF: Locating the unenclosed stairs within the setback and up to the property line elevates access activity within a closer proximity to the adjacent property than is permitted by AMC regulations. Elevated activity in closer proximity to property lines has the potential to increase noise and privacy concerns for adjacent properties.

**APPELLANT:** The comments made by board member Cunningham, that we should have build a ramp in front of the house instead of a garage showed the lack of compassion and the uninformed nature of the decision made. There had been an invitation made for the board members to view the property, nobody did instead they drove by, you can not see the back from the street.

STAFF: Comment noted.

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**CITY OF ALAMEDA  
PLANNING DEPARTMENT**

**STAFF REPORT**

**ITEM NO.:**

**8-A**

**APPLICATION:**

**Major Design Review, DR04-0013 and Variances, V04-0005, 0015, 0016, 0017—Applicant, Italo Calpestri, for Property Owners, Fred and Ursula Hogenboom—913 Oak Street.** The applicant requests Major Design Review and Variance approval to permit the construction of a rear deck and garage addition to the existing single family dwelling that was under construction without City permits. The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south side and west rear property lines. The garage addition is an expansion of the existing dwelling up to the north side and west rear property lines. The applicant is requesting the following Variances:

- 1) Variance to AMC Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height.
- 2) Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings.
- 3) Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards.
- 4) Variance to AMC Subsection 30-4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the south side property line with zero setback where a minimum five foot setback is required for side yards.

**GENERAL PLAN:**

Medium Density Residential

**ENVIRONMENTAL  
DETERMINATION:**

Categorically Exempt from State CEQA Guidelines, Section [15301(e)(1)] – [Additions to Existing Structures]

**STAFF PLANNERS:**

Melodie Bounds, Planner I

**RECOMMENDATION:**

Deny Variances and Major Design Review

**ACRONYMS:**

AMC – Alameda Municipal Code

**ATTACHMENTS:**

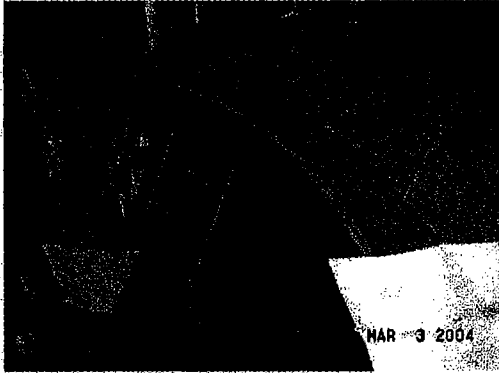
1. Draft Resolution
  2. Variance Application and Supplement, dated March 17, 2004
  3. Aerial Photograph of Vicinity, dated 2002
  4. Sanborn Map
  5. Plot Plan Submitted with Building Permit No. B01-0600
  6. Second Notice to Abate Alameda Municipal Code Violations, dated January 13, 2004
  7. Staff Correspondence "Notice of Incomplete Application," Dated March 10, 2004
  8. Staff Correspondence "Notice of Hold Application," dated March 17, 2004
  9. Applicant Correspondence "Response to Notice of Incomplete Application (March 17, 2004)," dated March 24, 2004
  10. Staff Correspondence "Second Notice of Incomplete Application," dated April 23, 2004
  11. Staff Correspondence "Summary of Meeting Minutes," dated July 22, 2004
  12. Applicant Correspondence "Confirmation of Revised Plans Requested," dated September 1, 2004
  13. Letters, dated March 3, 2004 & September 10, 2004, from Dr. Raymond S. Pacovsky and Raymond A. Pacovsky, (opposed) (Annex 1,2 & 3)
  14. Letter, dated March 9, 2004, from Raymond Pacovsky, Raymond S. Pacovski, Sarah Reamer, Maureen Gregg, Sai Ling Young, Tracy O'Shea, (opposed)
  15. Staff Correspondence "Response to Neighbor's Concerns," dated March 18, 2004
  16. Letter, dated September 16, 2004, from Raymond M. Pacovsky and Dr. Raymond S. Pacovsky, (opposed)
  17. Applicant Correspondence "Response to Telephone Conversation with Staff," dated September 15, 2004
  18. Project Plans dated September 15, 2004
- 

**I. PROPOSAL SUMMARY**

The applicants request Major Design Review and Variance approval to retain improvements already made to the property and complete construction started without the required permits. The proposal includes retaining the existing rear deck that was constructed without permits and completing the construction of the single car, attached garage with overhead storage.

### **Deck**

The constructed deck (shown below) extends from the rear of the existing house up to the south (left side) and west (rear) property lines. The deck measures approximately thirty inches in height from grade to the floor surface of the deck.



The applicants request Variance approval to 1) permit the rear deck to be built up to the side (north) property line, where a minimum three foot side yard setback is required, 2) permit the rear deck to be built up to the rear (west) property line, where a minimum three foot rear yard setback is required, and 3) permit the unenclosed stair and landing providing side yard access to the deck to be built up to the side property line, where a minimum three foot side yard setback is required.

### **Structural Expansion of Dwelling**

The attached garage with overhead storage (shown below) is a structural expansion of the existing dwelling that is constructed up to the north (right side) and west (rear) property lines. The newly constructed attached garage measures approximately fifteen feet from grade to the peak of the roof. The north (right) wall of the attached garage measures approximately eleven feet four inches from grade to the top of the roof whereas the south (left) wall measures approximately twelve feet ten inches from grade to the top of the roof.



The applicants request Variance approval to 1) permit construction of the garage addition which results in the structural expansion of the existing dwelling up to the rear property line with zero setback, where a minimum rear yard setback of twenty feet is required. 2) permit construction for the garage addition which results in the structural expansion of the existing dwelling up to the north side property line with zero setback, where a minimum five foot side yard setback is required.

## II. BACKGROUND

This code compliance case commenced December 5, 2003 when a complaint was received from a neighbor alleging that a structure was being built at 913 Oak Street without permits. Following staff investigation and an exterior site inspection, an abatement notice was issued by the City's Code Compliance Division requesting the submittal of completed permit applications and necessary plans for Planning and Building staff review. On January 5, 2004, the property owners met with Code Compliance staff to discuss the options for the unpermitted construction. During that meeting, the property owners were advised to either redesign the garage to meet the requirements of the Alameda Municipal Code and submit the appropriate permit application materials to the Planning and Building Department for review or request the appropriate Variance approvals to permit the partially constructed garage and completed rear deck. The property owners were given until January 12, 2004 to comply with the alternatives discussed during the January 5<sup>th</sup> meeting. Further staff correspondence regarding this case is presented in the attachments numbered 6-15.

The original house on the lot was constructed prior to 1909 as a single family dwelling with no garage. A detached garage was later constructed in 1924. In this case, the original detached garage was demolished to accommodate the new garage that is under construction without City permits. Demolition of the original garage would have required approval from the Secretary to the Historic Advisory Board prior to the authorization of any new construction. Request to demolish existing, pre-1942 garage structures are generally approved as long as the garage is determined not to be historically significant and off-street parking is provided for the number of spaces removed pursuant to AMC location standards for off-street parking. In this case, the original garage has already been demolished. After reviewing the permit history for this property and pictures of the original garage submitted by the applicant and surrounding property owners, the Secretary to the Historic Advisory Board has determined the original garage not to be historically significant and approvable for demolition and replacement. Note that only one off-street parking space is required to replace the one, compact, off-street parking space that originally existed.

### A. Site Conditions

The project site is located in the R-4, Neighborhood Residential Zoning District. County records indicate that the subject property consists of a rectangular lot that measures approximately forty feet wide by one hundred feet deep (approx. 4,000 square feet). According to City records, the existing single-family dwelling was constructed prior to 1909 and the original garage was constructed in 1924. Sanborn records indicate that the original garage was detached from the main dwelling and built up to the side and rear property lines. A permit history revealed plans submitted for a foundation permit in 1991 that confirmed the original garage was detached from the main dwelling by approximately four feet (see attachment 4). The foundation plan also confirmed that the original garage measured approximately sixteen feet wide by seventeen feet four inches in length and was built up to the north (right side) and west (rear) property lines.



## **B. Surrounding Land Use**

Adjacent property uses include a mixture of one, two, and three-story, duplexes and single-family residences. The architectural styles of the surrounding homes vary, but there is a mixture of colonial revival cottages, bungalows, and Victorian style homes in the vicinity. Many of the homes have detached garages or no designated off-street parking.

North—two-story, single-family residence

South—one-story, single-family residence and three-story, apartment

East—two-story, single-family residence

West—two-story, single-family residence

A site inspection revealed that the adjoining and abutting properties have various detached structures that are built up to the side and rear property lines, creating a situation where open space is minimum (see attachment 3, Aerial Photograph).

## **III. STAFF ANALYSIS**

### **A. Discussion**

In this case, the applicant wishes to minimize the required rear and side yard setbacks by constructing a new garage addition that would enlarge the existing footprint of the building to extend up to the rear and north side property line. Additionally, the applicant is proposing to minimize the rear and south side yard setbacks to accommodate a deck. Staff does not believe the findings to support this project proposal can be made because the garage addition and rear deck could be redesigned to be fully compliant with the provisions of the AMC. For example, a detached, one story, single car garage could be constructed to measure approximately ten feet wide by twenty feet long with a maximum height of fifteen feet measured from grade to the ridge of the roof. The detached garage could be located up to the interior side and rear property lines, as long as the structure is detached from the main building by a minimum of five feet with a one-hour fire rated south wall to the satisfaction of the Building Official and setback at least seventy-five feet from the front property line, pursuant to AMC Subsections 30-5.7(f)(5) and 30-5.7(f)(3).

The rear deck could also be brought into conformance with AMC standards without approval of a Variance in two ways, either by lowering the deck or setting the deck back three feet from the side and rear property lines. For example, the deck height could be decreased by lowering the footings of the deck so that the height of the deck measures twelve inches from grade to the top surface of the deck rather than the current height, which measures thirty inches from grade to the surface of the deck. Decks measuring up to, and including, twelve inches in height may encroach into any required side and rear yard, pursuant to AMC Subsection 30-5.7(c)(2)(a). Lowering the deck to measure twelve inches in height could also eliminate the need for the unenclosed stair and landing proposed on the south side yard. And, removal of the stair and landing would eliminate the need for the fourth requested Variance. Also, decreasing the height of the deck by lowering the footings would allow for the surface design of the deck to remain intact.

The second alternative to bring the deck into conformance is to set the deck back three feet from the south side and rear property lines. This could be accomplished by removing three feet of the deck along the south and west sides. This alternative may alter the surface design of the deck, but would still provide a deck surface of approximately 300 square feet. It may also be possible to move the deck three feet to the north and remove a portion of the deck closest to the existing house to achieve the three foot setback from the south side and rear west property lines. Additionally, the unenclosed stair and landing could be removed and a barrier or hand rail could be provided in place of the existing stair.

### **The 900 Block of Oak Street**

The project site and existing residence is not extraordinarily small when compared to other residential properties in the vicinity or within Alameda. The 4,000 square foot project site is larger in size, by approximately 2800 square feet, when compared to the neighboring property located directly south and is approximately 1,000 square feet larger in size than the property located directly north of 913 Oak Street. Moreover, the lot size of 913 Oak Street is an average of 237 square feet larger in size when compared to all of the lots located on the east side of the 900 block of Oak Street (See Figure 1).

The average floor area for residences located on the 900 block of Oak Street is 1,332 square feet. The residence located at 913 Oak Street, according to County records, is 1,345 square feet. Therefore, the residence prior to the unauthorized construction was similar or larger in size than the average floor area of residences located on the same block of Oak Street.

**Figure 1**

<b>Properties Located at 900 Block of Oak Street</b>	<b>Lot Size (sq. ft.)*</b>	<b>Size of Residence (sq. ft.)*</b>
909 Oak Street	1,207	609
912 Oak Street	3,732	1,900
913 Oak Street	4,000	1,345 (county records, pre-construction)
914 Oak Street	3,762	1,336
916 Oak Street	3,795	1,743
917 Oak Street	3,000	1,059
<b>Average</b>	<b>3,249</b>	<b>1332</b>

\* Per County Records, September 10, 2004

### **The Adjoining and Abutting Properties**

Because the lot size of 913 Oak Street is larger than both of its neighboring properties located on Oak Street, the subject property abuts three additional properties located on Clinton Avenue and San Jose Avenue. The abutting properties, 2265 and 2267 Clinton Avenue include a three-story apartment complex and a two-story duplex, while the abutting property located at 2262B San Jose Avenue is an interior lot that consists of a single-family dwelling with detached garage. Because of the configuration of the lots and the location of the surrounding structures in the vicinity, open space in this area is limited (see attachments 3, 4).

### **Concerns Raised During Public Notice**

**Property Lines:** The concern was raised regarding the proximity of the new garage addition and deck to the north, south, and west property lines. According to plans submitted by the applicant, the building and deck is contained within the property boundaries of this parcel. However, should the Planning Board make findings to support approval of the project Staff recommends requiring a Site Survey as a condition of approval.

**Drainage:** The neighbors' comments also included the concern that drainage is flowing across the property lines onto their properties. According to AMC Subsections 30-84.12, drainage across property lines is not permitted. The Public Works Department enforces this requirement as a standard condition of approval on development applications.

**Siding:** The neighbors' comments included concerns that the proposed aluminum siding on the north and west wall of the new garage addition is inconsistent with the shingle siding of the main building. Because Staff found the proposed aluminum siding to be inconsistent with the main building, we are recommending denial of the Design Review.

### **B. Compliance with Development Standards for Height, Lot Coverage, and Setbacks (Summary Table)**

DESCRIPTION	R-4	EXISTING	PROPOSED	COMPARISON
Front Setback	20'	15'	No Change	Legal Nonconforming No Changes
Side Setback (Main Dwelling)	5' single story 7' two story	9' (north side) 5' (south side) single story	0' (north side) 0' (south side) single story	Does Not Comply Does Not Comply Variance Required
Rear Setback (Main Dwelling)	20'	20'3"	0'	Does Not Comply Variance Required
Side Setback (Deck < 30" in height)	3'	N/A	0' (south side) 27'4" (north side)	Does Not Comply Complies
Rear Setback (Deck < 30" in height)	3'	N/A	0'	Does Not Comply
Main Building Lot Coverage	Max. 50%	38%	49%	Complies
Rear Yard Coverage	Max. 40%	35%	40%	Complies
Building Height	35'	Highest point of existing house measures 24'	Highest point of addition measures 15'	Complies
Parking	2	1	No Change	Legal Nonconforming No Changes
No. of Stories	2	1	No Change	Complies



### **C. Variances**

To grant the relevant Variances, the Planning Board must make all three of the following findings as they relate to each Variance request:

#### **Side & Rear Setback (deck) V04-0016:**

- 1. There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

This finding cannot be made. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the deck could be redesigned to be fully compliant with AMC standards, simply by lowering the footings so that the deck measures no more than twelve inches in height from grade to the surface of the deck or by removing a three foot portion the deck on the south side and rear property lines to achieve the required setbacks from these property lines.

- 2. Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

This finding cannot be made. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

- 3. The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

This finding cannot be made. Decks offer opportunities for outdoor congregation and entertainment. The proposal involves retaining the already constructed nonconforming deck that is thirty inches in height and built up to the side and rear property line. A deck of this height and location has the potential to create increased noise levels and privacy concerns for adjacent and abutting residential properties, and the potential increase in activity may be injurious to the surrounding properties.

#### **Side Setback (stairs and landing) V04-0017:**

- 1. There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

This finding cannot be made. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. Additionally, the stair and landing is needed to provide access to the nonconforming rear deck from the south side yard; however, the stair and landing would be unnecessary if the deck was lowered to be compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

This finding cannot be made. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with the same size limitations and advantages. The property owner has created a self imposed hardship by constructing a nonconforming deck that extends up to the side property line, measures thirty inches in height and requires a stair with landing for access.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

This finding cannot be made. The proposal to retain the already constructed stair and landing within the side and rear property lines has the potential to create increased traffic and noise along the south side yard, which may be injurious to the adjacent and abutting residential properties located to the south.

Rear Setback (garage addition) V04-0005:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

This finding cannot be made. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

This finding cannot be made. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

This finding cannot be made. The project extends the main dwelling up to the side and rear property lines and blocks the views and sunlight of the adjacent and abutting properties, which is potentially injurious to these surrounding residential properties.

Side Setback (garage addition) V04-0015:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

This finding cannot be made. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

This finding cannot be made. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

This finding cannot be made. The project extends the main dwelling up to the side and rear property lines and blocks the views and sunlight of the adjacent and abutting properties, which is potentially injurious to these surrounding residential properties.

## **Variance Conclusion:**

Staff is unable to make any of the required findings in order to support a recommendation of approval for Variance, V04-0005 (Rear Setback—addition), V04-0015 (Side Setback—addition), V04-0016 (Rear & Side Setback—deck), V04-0017 (Side Setback—stairs and landing).

## **D. Design Review**

Findings cannot be made to support the design of the project as is currently proposed because the garage addition and rear deck have the potential to cause adverse effects to surrounding properties under the Variance findings; and therefore, the project proposal cannot be found to be compatible and harmonious with the design and use of surrounding properties. However, the project could be redesigned to meet AMC standards and be consistent with the City's Design Guidelines. If the project were redesigned, as indicated below, findings could be made to support the Design Review.

### **Redesign Deck to either:**

#### **(A)**

1. Lower the footings so that the top surface of the deck measures no more than 12' in height from grade.
2. Remove the unenclosed stair and landing from the left (south) side property line.

#### **(B)**

1. Set the deck back three feet from the south side and rear property line by removing a three foot portion of the deck along its south and west edges, which would allow for a deck of approximately 300 square feet in size.
2. Remove the unenclosed stair and landing from the left (south) side property line and provide a barrier or hand rail in place of the existing stair.

### **Redesign garage to be:**

1. Single-story
2. Detached from the main dwelling by a minimum of five feet with a one hour fire resistive south wall to the satisfaction of the Building Official.
3. Measure no more than 10' wide by 20' feet long, with an interior dimension of 8'6" wide by 18' long (accommodations for one, standard size, off-street parking space).
4. Measure no more than 15' from grade to the highest peak of the roof ridge and 10' from grade to where the roof meets the outer walls of the structure.
5. Setback a minimum of seventy-five feet from the front property line and located up to the interior rear and side property lines with all construction within three feet of the property line (including eaves and similar architectural features) to be one hour fire resistive, to the satisfaction of the Building Official.
6. Consistent in style and design with the main dwelling.

**Design Review Conclusion:**

Staff is unable to make findings in order to support a recommendation of approval for the structural expansion of the main dwelling and construction of the rear deck, as is currently proposed.

**IV. RECOMMENDATION**

Staff recommends that the Planning Board hold a public hearing, consider all available testimony and information, review the administrative record, and act to deny Variances, V04-0005 (Rear Setback—addition), V04-0015 (Side Setback—addition), V04-0016 (Rear & Side Setback—deck), V04-0017 (Side Setback—stairs and landing) and Major Design Review, DR04-0013 for the structural expansion of the existing main dwelling and construction of the rear deck with stair and landing.

Additionally, should the Planning Board uphold staff's recommendation to deny the requests for Variances and Major Design Review, the Property Owners shall have thirty days (30) from the date of Planning Board's adoption of Resolution Number PB-XX-XX to submit revised plans to bring all unauthorized work into conformance either by removing the unauthorized construction or bringing the work into conformance with the regulations of the Alameda Municipal Code, California Building Code, and the items discussed in Section "D" of this report.

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**CITY OF ALAMEDA PLANNING BOARD  
RESOLUTION NO. PB-04-XX**

**A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA DENYING VARIANCES, V04-0005, V04-0015, V04-0016, V04-0017, AND MAJOR DESIGN REVIEW, DR04-0013, AT 913 OAK STREET**

WHEREAS, an application was made on February 25, 2004, by Italo A. Calpestri for property owners, Fred and Ursula Hogenboom, for Variance and Major Design Review approval to The applicant requests Major Design Review and Variance approval to permit the construction of a rear deck and garage addition to the existing single family dwelling that was under construction without City permits. The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south side and west rear property lines. The garage addition is an expansion of the existing dwelling up to the north side and west rear property lines. The applicant is requesting the following Variances:

- 1) Variance to AMC Subsection 30-5.7(c) (2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height.
- 2) Variance to AMC Subsection 30-5.7(c) (2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height.
- 3) Variance to AMC Subsection 30-4.4(d)(7) to construct a garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards.
- 4) Variance to AMC Subsection 30-4.4(d)(6) to construct a garage addition that extends the main dwelling up to the south side property line with zero setback where a minimum five foot setback is required for side yards.

WHEREAS, the application was accepted as complete on July 29, 2004; and

WHEREAS, the subject property is designated Medium-Density Residential in the General Plan Diagram; and

WHEREAS, the subject property is located in an R-4, Neighborhood Residential Zoning District; and

WHEREAS, the Planning Board held a public hearing on this application on September 27, 2004 and has examined pertinent maps, drawings, and documents; and

WHEREAS, the Planning Board is unable to make all of the following required findings in order to support approval for the Variances to permit the construction of the rear deck and attached garage:

Side & Rear Setback (deck) V04-0016:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The Planning Board cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the deck could be redesigned to be fully compliant with AMC standards, simply by lowering the footings so that the deck measures no more than twelve inches in height from grade to the surface of the deck or by removing a three foot portion the deck on the south side and rear property lines to achieve the required setbacks.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The Planning Board cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The Planning Board cannot make this finding. Decks offer opportunities for outdoor congregation and entertainment. The proposal involves retaining the already constructed nonconforming deck that is thirty inches in height and ,built up to the side and rear property line. A deck of this height and location has the potential to create increased noise levels and privacy concerns for adjacent and abutting residential properties, and the potential increase in activity may be injurious to the surrounding properties.

Side Setback (stairs and landing) V04-0017:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The Planning Board cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. Additionally, the stair and landing is needed to provide access to the nonconforming rear deck from the south side yard; however, the stair and landing would be unnecessary if the deck was lowered to be compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The Planning Board cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with the same size limitations and advantages. The property owner has created a self imposed hardship by constructing a nonconforming deck that extends up to the side property line, measures thirty inches in height and requires a stair with landing for access.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The Planning Board cannot make this finding. The proposal to retain the already constructed stair and landing within the side and rear property lines has the potential to create increased traffic and noise along the south side yard, which may be injurious to the adjacent and abutting residential properties located to the south.

Rear Setback (garage addition) V04-0005:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The Planning Board cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The Planning Board cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.



3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The Planning Board cannot make this finding. The project extends the main dwelling up to the side and rear property lines and blocks the views and sunlight of the adjacent and abutting properties, which is potentially injurious to these surrounding residential properties.

Side Setback (garage addition) V04-0015:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The Planning Board cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The Planning Board cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The Planning Board cannot make this finding. The project extends the main dwelling up to the side and rear property lines and blocks the views and sunlight of the adjacent and abutting properties, which is potentially injurious to these surrounding residential properties.

WHEREAS, the Planning Board is unable to make all of the following findings relative to Design Review approval;

Because the garage addition and rear deck have the potential to cause adverse effects to surrounding properties under the Variance findings; and therefore, the project proposal cannot be found to be compatible and harmonious with the design and use of surrounding properties. However, the project could be redesigned to meet AMC standards and be consistent with the City's Design Guidelines. If the project were redesigned, as indicated below, findings could be made to support the Design Review.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby determines that the proposal is Statutorily Exempt under California Environmental Quality Act Guidelines, Section 15301 – Minor Alteration of Existing Structures.

BE IT FURTHER RESOLVED THAT the Planning Board of the City of Alameda hereby denies the Variance requests V04-0005 (Rear Setback—addition), V04-0015 (Side Setback—addition), V04-0016 (Rear & Side Setback—deck), V04-0017 (Side Setback—stairs and landing) and Major Design Review, DR04-00013 and Major Design Review for the construction of the rear deck, unenclosed stair and landing and structural expansion of the main dwelling into the required side and or rear yard setback:

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision by completing and submitting an appeal form and paying the required fee.

NOTICE. The Property Owner shall have thirty days (30) from the date of this Resolution No. PB-XX-XX to submit revised plans to bring all unauthorized work into conformance either by removing the unauthorized construction or bringing the work into conformance with the regulations of the Alameda Municipal Code, California Building Code, and the items discussed in Section “D” of this report.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision or final action on any appeals plus extensions authorized by California Code of Civil Procedure Section 1094.6.

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CITY OF ALAMEDA

PLANNING DEPARTMENT  
VARIANCE APPLICATION SUPPLEMENT

Project and Description

Describe the proposed project, including a description of that aspect of the project which requires the Variance:

1. Replace the existing garage with a new garage which is attached to the dwelling but is not connected to the interior of the residence via an interior passage or doorway. This garage is less than 5' from the dwelling and encroaches into the rear and sideyard setbacks and is less than 75' from the front property line and has an eave higher than 10' from grade (10'-8").

Coverage of the new garage in the 20' rear yard is less than 40%.

2. Replace existing wooden deck in the rear with a lower deck (30" above grade). Existing deck encroaches into the side and rear yard setbacks. This Variance requests that the new deck encroach for 26'-6" along the south side property line and approximately 15' along the rear property line.

What exceptional or extraordinary circumstances apply to the property or use in relation to size, topography, location or surroundings?

This property is in an older section of town in a neighborhood of homes and garages built in the early 1900's. The size and placement of the garages and driveways were suitable for vehicles and usages of that era.

The lot size is 40'4" x 100' (4,033 sq.ft.) which is smaller than the minimum permitted by the present Zoning Ordinance. Using the Sanborn map as reference, the existing garage was approximately 19' wide and 18' deep which was substandard for accommodating current cars.

Additionally, because a portion of the residence extends into the rear yard and the distance from that portion of the house to the rear property line is approximately 20 feet, the 18 foot deep garage shown on the Sanborn map would have been less than 5' away from the residence.

Due to the small lot size and small rear yard, there is insufficient space to permit a 20' deep garage while maintaining a 5' separation between house and garage as well as meet the side and rear yard setbacks.

This Variance is to request that the rebuilt garage be allowed to remain without the 5' separation from the residence and with no side or rear yard setbacks on the north and west sides. We are also requesting that the wooden deck in the rear yard encroach into the side and rear yard setbacks. Covering a portion of our rear yard with a wooden deck rather than landscaping is a better use of the space. Abutting neighbors are not affected by the wooden deck, nor do they provide 5 feet of landscaped setback.



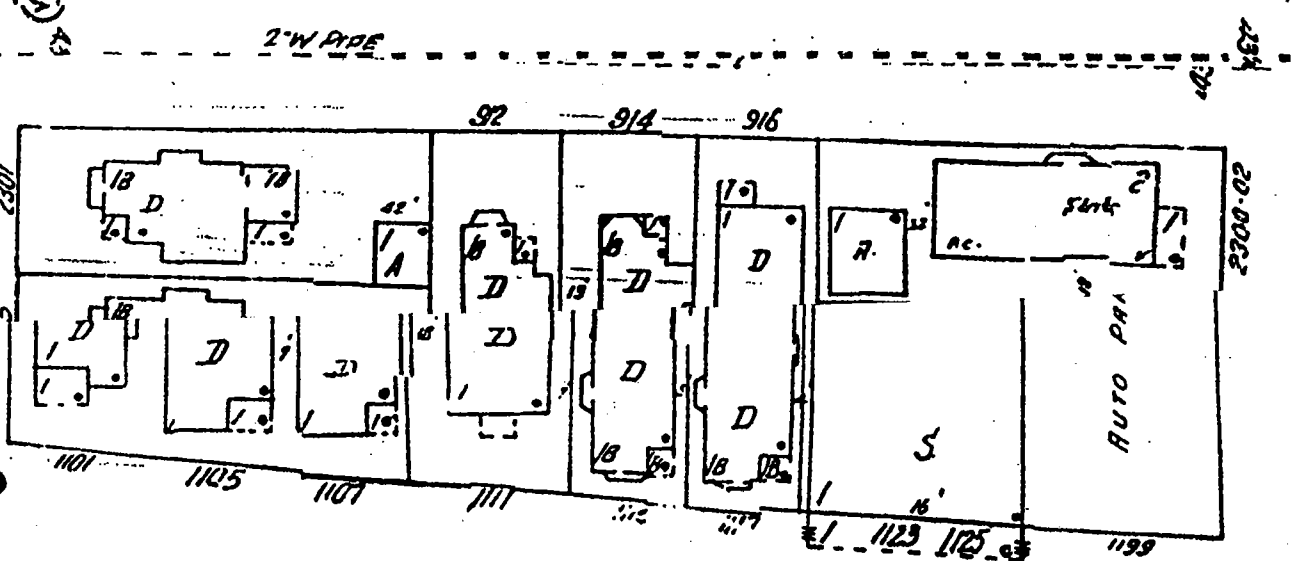
2002





San Jose Avenue

aerial photograph, dated 2002



6'4" MAX

Clinton Ave.  
AVE. - - - - - 8

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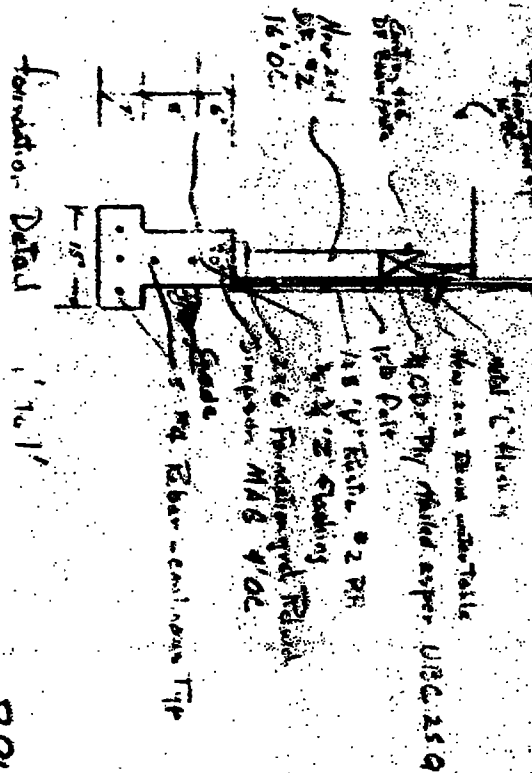
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**LAUREL ST**

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9/13 Oct 37  
Condition Max  $\frac{1}{4}$  to 1"  
Post Plan

Formation Detail

B91-0600

**APPROVED JOB PLAN  
CITY OF ALAMEDA**

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THE UNIVERSITY OF CHICAGO

11

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1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Arar and Collins (1987) using a spectrophotometer (Shimadzu 1601) with 10 mm quartz cuvettes. The concentration of chlorophylls was expressed in  $\mu\text{g mL}^{-1}$  of the sample.

100

1. *What is the purpose of the study?*  
 2. *What are the research questions or hypotheses?*  
 3. *What is the study design?*  
 4. *What is the sample size and how was it selected?*  
 5. *What are the variables being measured?*  
 6. *What are the data collection methods?*  
 7. *What are the results of the study?*  
 8. *What are the conclusions of the study?*  
 9. *What are the limitations of the study?*  
 10. *What are the implications of the study?*

20

Figure 1. The effect of the number of trials on the number of correct responses. The number of correct responses was plotted against the number of trials for each participant. The number of correct responses increased with the number of trials, and the increase was more pronounced for the high-ability group than for the low-ability group.

1. *Journal of the American Medical Association*, 1997; 277: 1039-1043.

1. *Chlorophyll *a** and *Chlorophyll *b** were determined by the method of Arar and Collins (1971) using a Shimadzu 1010 UV-Visible Spectrophotometer. The concentration of chlorophylls was expressed in mg/L.



## City of Alameda • California

January 13, 2004

Frederick & Ursula Hogenboom  
913 Oak Street  
Alameda, CA 94502

**RE: SECOND NOTICE TO ABATE ALAMEDA MUNICIPAL CODE VIOLATIONS  
AT 913 OAK STREET**

Dear Property Owner:

On January 5, 2004, you met with Alameda City Officials, to discuss the building you are constructing at the rear of your property. At that meeting we discussed your options and you agreed to either apply for a variance or submit completed required permit applications and plans to begin the process of bringing your garage into compliance. You were given until January 12, 2004 to comply. You have failed to meet this deadline and the violation of the Alameda Municipal Code still exists.

1. No required permits were obtained for the construction of the building at the rear of your property. The work without permits is a violation of A.M.C 13-1.1 (U.A.C. 301.1 Permits Required)

The City hereby requests that within seven (7) days from the date of this notice you do the following:

1. Submit completed permit applications, along with any necessary plans to abate the above-described construction to the City of Alameda Central Permits Office, 2263 Santa Clara Avenue Room 190. Permits applications will need to be submitted by appointment only by calling me at (510) 747-6847.

Please take notice that failure to comply with this Notice of Violation will result in this office issuing an Administrative Citation in addition to referring this matter to the Office of the City Attorney for the appropriate legal action to compel your compliance. Violations of the municipal codes constitute a public nuisance and are misdemeanors, punishable by fines up to \$1000.00 and/or six (6) months imprisonment, or both, for each violation. Each and everyday a violation continues to exist constitutes a separate violation. Pursuant to Alameda Municipal Code 1-5.4, you also may be liable for the costs of any civil action including the cost of investigation, court costs, reasonable attorney fees and cost of monitoring compliance.

Planning & Building Department  
Building Services - Code Compliance

2263 Santa Clara Avenue, Room 190  
Alameda, CA 94501

Attachment 6



Page 2 of 2  
Fredrick & Ursula Hogenboom  
913 Oak Street  
Alameda, CA 94502


I hope you take this opportunity to correct the violation without any further action by the City. I will review the property's permit history for compliance on:

Wednesday January 21, 2004

Should you have any question concerning this notice, please call this office immediately at (510) 747 - 6845.

Your anticipated cooperation in this matter is appreciated.

Sincerely,



Tim Higeres  
Code Enforcement Officer  
City of Alameda  
510 747 - 6847



## City of Alameda • California

March 10, 2004

Italo A. Calpestri, AIA  
1504 Park Street #7  
Alameda, CA 94501

Re: Variance and Major Design Review Application—V04-0005, DR03-0013 at 913 Oak Street.

Dear Applicant:

Based upon our review of your plans, which had been submitted on February 25, 2004, your application has been found to be "Incomplete," in accordance with the Government Code Section 65943 (Permit Streamlining Act), until the following is submitted to the Planning Department:

1. Please complete the attached Summary Table Form.
2. Please review the attached Application Submittal Checklist and include all incomplete (highlighted) items on the plans for review.
3. Please provide a fully dimensioned and clearly defined site plan that includes the existing deck, patio cover, Jacuzzi, and fences/gates.
4. Please submit elevation drawings of the existing deck, fence, and gates located on the property.
5. Please define all new and/or replacement windows on the site by submitting elevation drawings of the house, a window schedule, and brochure/cutsheet of the new windows. An example of a window schedule has been included with this letter for your convenience.

### Preliminary Merits

It has come to our attention that exterior modifications, in addition to the proposed garage, have been completed without the benefit of Design Review and/or required permits. These modifications include but are not limited to the following:

1. **Installation of the rear deck.** Either set the deck back 5-feet from the side and rear property line pursuant to Alameda Municipal Code Section 30-5.7(c)(1) or apply for a Variance.
2. **Installation of a rear yard patio cover (over Jacuzzi).** Either set the rear yard patio cover (over Jacuzzi) back 5-feet from the side and rear property line pursuant to Alameda Municipal Code Section 30-5.7(f) or apply for a Variance.
3. **Installation of a side and rear yard fence over 6-feet in height.** Either relocate the uncovered stairs located on the south (left) side yard back 5-feet from the side property line pursuant to Alameda Municipal Code Section 30-5.7(e) or apply for a Variance.
4. **Installation of an uncovered staircase in the south (left) side yard.** Either limit the side and rear yard fences to measure 6-feet solid with 2-feet of lattice measured from grade pursuant to Alameda Municipal Code Section 30-5.14(c)(3) or apply for a Variance.

(continued...)

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Planning & Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

Printed on Recycled Paper

Attachment 7

5. **Installation of the north (right) side yard gate.** Either remove the gate located on the north (right) side yard or install an automatic remote device that will automatically open the gate, making the driveway and garage functionally accessible for off-street parking pursuant to Alameda Municipal Code Section 30-7.3.
6. **Window replacements and/or modifications.** Minor Design Review is required for all new and/or replacement windows. It is possible to include the new windows on the existing Major Design Review application for the garage. To include the windows on this application, please submit elevation drawings of the house, a window schedule, and brochure/cutsheet of the new windows. An example of a window schedule is included with this letter for your convenience.

A fee schedule is provided below that includes the fees for the additional Variances required for the work completed without permit. Please understand that it is possible to avoid the additional Variance fees by revising the structures on the site to conform to the regulations outlined in Alameda's Municipal Code (AMC). I strongly encourage you to bring the nonconforming structures into conformance and avoid the need for additional Variances and excessive costs associated with the Variances. Because work was completed without permits an investigative fee of 400% is required in addition to all required fees.

**Fee Schedule for Additional Required Variances**

Variance to AMC Section 30-5.7(c)(1)	\$135.20*
Variance to AMC Section 30-5.7(f)	\$135.20*
Variance to AMC Section 30-5.7(e)	\$135.20*
Variance to AMC Section 30-5.14(c)(3)	\$135.20*
Variance to AMC Section 30-7.3	<u>\$135.20*</u>
Subtotal:	\$676.00
Code Enforcement Investigative Fee (4x)	<u>\$2,704.00</u>
Total:	<b>\$3,380.00</b>

\*20% of the fee for Variance #V04-0005

NOTE: Other applicable fees may be added by a Permit Technician

Included with this letter are the Summary Table, Application Submittal Checklist, and Window Schedule for your review and completion. Please submit the attached forms, necessary plans, and appropriate fees to the Planning and Building Department at 2263 Santa Clara Avenue, Room 109.

If you disagree with the decision regarding the incompleteness of your application and the additional requirements, you may appeal it to the Planning Board. To appeal a decision to the Planning Board, a \$122 base fee is required along with the appropriate form and 15-copies of any supporting plans and/or exhibits must be submitted to the Planning and Building Department, Room 190, 2263 Santa Clara Avenue, Alameda, within 10 calendar days (which would be no later than 5:00 p.m., Friday, March 19, 2004).

If a complete or amended project, as requested by this notice, is not received within 30 days of this notice, this application will be deemed by staff to be withdrawn. If you have any questions on this matter, please contact Melodie Bounds at (510) 747-6875.

(continued...)

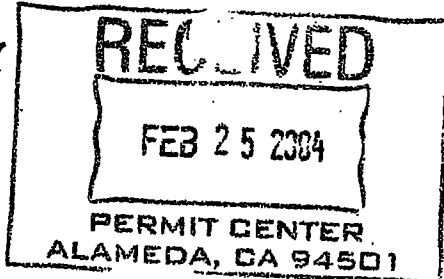
Sincerely,

A handwritten signature in black ink, appearing to read "Melodie Bounds". The signature is fluid and cursive, with the first name "Melodie" written in a larger, more prominent script than the last name "Bounds".

Melodie Bounds, Planner I  
Planning & Building Department

Cc: Fred and Ursula Hogenboom, Property Owners  
George Carder, Supervising Building Inspector  
Tim Higaes, Code Compliance Officer  
Trisha Aljoe, Special Counsel

Encl: Summary Table  
Application Submittal Checklist  
Window Schedule Form



**SUMMARY TABLE**

Address: 913 OAK ST

GARAGE

\*To be submitted with all Planning Applications

**ZONING COMPLIANCE FOR DISTRICT R4**

Categories	Standard	Existing	Proposed	✓
Total Lot Area	5000 <del>sq</del>	40'-4" x 100	No change	
Lot Depth	100'	100	100	
Lot Width	50'	40'-4"	40'-4"	
Front Yard Setback	20'	15'	15'	
Rear Yard Setback	20'	Varies	Varies	
Left Side Yard Setback: 1st/2nd story	5' 7'			
Right Side Yard Setback: 1st/2nd story	5' 7'			
Separation Between Main Buildings	20'			
Maximum Building Height	35'			
Number of Stories	2			
Main Building Coverage	50%			
Accessory Building Coverage	40%			
Separation between Main/Accessory Bldg	5'	less than 5'	Varies for None	
Height of Accessory Building	15' to ridge 10' to parapet		14'-6"	
Number of Off-Street Parking Spaces	2	No change		
Setbacks for Unenclosed Parking Spaces	3'	No change		
Driveway Width	8.5' minimum 10' maximum	9' no change		
Landscaping for Driveway	1'			
Usable <del>Private</del> Open Space	400 <del>sq</del>			
Usable <del>Public</del> Open Space	NA	NA	NA	

- please define/complete highlighted areas.

M. Bounds 3/9/04



Address: 913 Oak Street

**APPLICATION SUBMITTAL CHECKLIST**

All submittal information shall be presented to the Permit Center and shall include this Application Form, all related fees, and any additional required information by the Planning and Building Department. Staff will review the application before it is accepted for submittal. If any of the items below are not included, the application will not be accepted.

<p><i>Staff Use Only</i></p> <p><input checked="" type="checkbox"/> <i>inc.</i></p>	<p><b>DESIGN REVIEW APPLICATION</b></p> <p><input checked="" type="checkbox"/> Completed Application Form.</p> <p><i>na</i> <input type="checkbox"/> Letter of Approval from the Home Owners Association (if applicable).</p> <p><input checked="" type="checkbox"/> Signature of Property Owner and Applicant on Page 2 of the Application Form.</p> <p><input type="checkbox"/> Completed Summary Table.</p>
<p><input checked="" type="checkbox"/> <i>inc.</i></p>	<p><b>ALL PLANS</b> include the following:</p> <p><input checked="" type="checkbox"/> Plan sheets must be no less than 11" x 17" and no greater than 24" x 36" unless prior approval is given.</p> <p><input checked="" type="checkbox"/> All plans must be folded into packets with each packet containing one set of plans. The packets should be no larger than 9" x 11" in size.</p> <p><b><u>Unfolded plans will not be accepted.</u></b></p> <p><input type="checkbox"/> Include north arrow, date prepared, and scale. Acceptable scales are: 1/4" = 1', 1/8" = 1'. Other scales may be acceptable, but should be discussed with Planning staff before filing.</p> <p><input checked="" type="checkbox"/> Name and phone number of person preparing the plan.</p> <p><input checked="" type="checkbox"/> Four Sets of plans for Design Review. (Note: For projects that require Planning Board approval an additional fifteen sets of plans will be requested when a hearing date is scheduled).</p> <p><i>na</i> <input type="checkbox"/> Approval Stamp/signature and date from Home Owner's Association (if applicable).</p>
<p><input checked="" type="checkbox"/> <i>inc.</i></p>	<p><b>SITE PLAN</b> include the following:</p> <p><input checked="" type="checkbox"/> Location of proposed development.</p> <p><input checked="" type="checkbox"/> Property lines; plans must show the distance between the face of the street curb and the front property line.</p> <p><input type="checkbox"/> Location and dimensions of all existing and proposed buildings. <i>* show existing/original garage</i></p> <p><input checked="" type="checkbox"/> Dimensions of required and proposed front, side, and rear yards.</p> <p><input type="checkbox"/> Location and dimensions of existing and proposed driveways, garages, carports, required off-street parking spaces and vehicle backup areas.</p> <p><input type="checkbox"/> Location and dimension of existing and proposed private and common open space.</p> <p><input type="checkbox"/> Location of all existing landscaping. Indicate any trees to be removed. Include tree circumferences of all trees. Provide species and common name of all trees.</p> <p><input type="checkbox"/> Location of existing and proposed height of walls and fences.</p> <p><input type="checkbox"/> Building footprints and approximate height of structures on adjacent lots (required for projects requiring a finding pursuant to AMC Section 30-5.7(k) &amp; (l), which allows for reduced setbacks).</p> <p><input type="checkbox"/> Location of drainage ways and access easements (check with the Public Works Department for public utility and access easements).</p>

## WINDOW SCHEDULE

Site Address: 913 Oak Street

Date: \_\_\_\_\_

	ROOM DESIGNATION	NEW SIZE	EXISTING SIZE	WINDOW TYPE	FRAME TYPE	CLEAR OPEN WIDTH	CLEAR OPEN HEIGHT
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							



## City of Alameda • California

Italo Calpestri, AIA  
1504 Park Street, No. 7  
Alameda, CA 94501

Date: March 17, 2004

Re: Variance -V04-0005 and Major Design Review-DR03-0013

Job Address: 913 Oak Street

Dear Applicant:

Based upon our review of your plans, this application has been placed on hold for the following reason(s):

- 1) The demolition of the preexisting garage that was built prior to 1942 requires Historic Advisory Board review and approval. Included with this letter is the Demolition Certificate of Approval Supplemental Application. Please complete and submit the attached Supplemental Application form, and appropriate fees to the Planning and Building Department at 2263 Santa Clara Avenue, Room 109. A fee schedule is provided below that includes the fees for the Demolition Certificate of Approval. Please also contact the Permit Center for more information regarding other applicable fees and procedures for demolition. The phone number for the Permit Center is (510) 747-6800.

### **Fee Schedule for Historic Advisory Board Demolition Certificate of Approval**

Demolition Certificate of Approval (Detached Accessory Structure):	\$136.00
Code Enforcement Investigative Fee (4X):	\$544.00
Deposit:	<u>\$500.00</u>
<b>Total:</b>	<b>\$1180.00</b>

NOTE: Other applicable fees may be added by a Permit Technician

continued...)

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Planning & Building Department  
2263 Santa Clara Avenue, Room 109  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

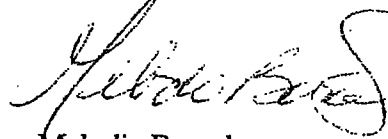
Attachment 8



Should you require clarification of the required corrections and/or deficiencies as shown above, please contact Melodie Bounds at (510) 748-6875.

Additional hold notices MIGHT be forthcoming from other plan check departments. When responding to hold notices, submit ALL information and/or responses ONLY to the CENTRAL PERMIT OFFICE (Room 190, City Hall) to ensure correct processing of your application.

Sincerely,



Melodie Bounds  
Planner I

Cc: Fred and Ursula Hogenboom, Property Owners  
George Carder, Supervising Building Inspector  
Tim Higare, Code Compliance Officer  
Trisha Aljoe, Special Counsel

Encl: Demolition Certificate of Approval Supplemental Application  
Planning Fee Schedule

# Italo A. Calpestri, AIA Architect & Associates

Member of the American Institute of Architects

Melodie Bounds, Planning & Building Department  
City of Alameda  
City Hall  
Alameda, CA 94501  
747-6875 voice 747-6853 fax

March 24, 2004

Project: Variance and Major Design Review V04-0005, DR04-0013  
913 Oak St.  
Alameda, CA 94501

Dear Ms. Bounds,

This letter is a response to your letter of incompleteness dated March 10, 2004. Enclosed are:

1. One copy Summary Table Form with the requested information
2. ~~Two~~ <sup>four</sup> copies Revised drawings showing the information highlighted on your checklist form as well as the dimensions requested on the site plan. (one copy 24 x 36 & one copy 11 x 17). Per the legal description, there are no easements on this property.
3. We have added the deck, fence and gates to the elevation drawing.
4. One copy Window schedule
5. Check in the amount of \$1,352.00 for adding two items to the Variance request:  
deck in rearyard setback \$135.20  
stairs in sideyard setback \$135.20  
 $270.40 \times 4 = \$1,081.60 + \$270.40 = \$1,352.00$  + track  
\$1365.62
6. HAB Demolition Certificate of Approval  
Color photograph of old garage  
Check in the amount of \$1,180.00

With regard to your items listed under Preliminary Merits:

1. Rear deck at side and rear property lines: Add this to the Variance. See the attached Variance Supplemental form.
2. Rear yard patio cover over the Jacuzzi: This is a movable, canvas patio umbrella not a permanent structure. It can be moved away from the rear and side fence.
3. Side and rear fence over 6-ft: There are two fences at this location. The tall fence was installed prior to the Owners' purchase of the house 25 years ago. They have added the lower fence (6-feet) with the 2-foot lattice which is exempt from Design Review. It is not known which of the adjacent neighbors either constructed or participated in construction of the older fence. See the enclosed photo.
4. Exterior stairs at south side: Retain these stairs and add them to the Variance application. See attached Variance Supplemental form.

Planning Department  
V04-0005 & DR04-13  
913 Oak Street

March 24, 2004

5. North side yard gate: Retain this gate as-is. Please reconsider your recommendation that an automatic gate opener be installed. This is unreasonable. The Owners have lived in this house over 25 years and are skilled at opening and closing their gate to access the driveway and garage. There are numerous examples of driveway gates throughout the City, and numerous examples of homeowners who open and close their gates manually when parking their cars.

Additionally, fences meeting the 6-foot height requirement and not in the front yard are exempt from Design Review. This gate as shown on the attached photograph, is a custom made, curved shape purposefully designed to reflect the decorative brackets on the house. The gate height is 5'-2" at the sides: the top of the curve is 6'-7" for an average height of less than 6 feet.

Please remove this condition.

6. Window replacements: Add to Design Review. The windows on the house were replaced over 15 years ago. The Owner is looking for the receipts for installation of these windows. No brochure is available.

Windows at the new garage which are not visible from the street are aluminum sliding windows which are more economical and suitable for garage use. Windows at the new garage which are visible from the street are wood frame and match the existing house.

We would be happy to discuss the items above at your convenience. Please distribute this material to other City staff as appropriate.

Sincerely,

Italo A. Calpestri, AIA

Cc: Fred & Ursula Hogenboom



## City of Alameda • California

April 23, 2004

Italo A. Calpestri, AIA  
1504 Park Street #7  
Alameda, CA 94501

Re: Variance and Major Design Review Application—V04-0005, DR03-0013 at 913 Oak Street.

Dear Applicant:

Based upon your response to my previous incomplete letter dated March 10, 2004, you have not fully responded to the incomplete items, and therefore your application remains "Incomplete," in accordance with the Government Code Section 65943 (Permit Streamlining Act), until the following is submitted to the Planning Department:

1. The footprint of the deck is not clear on the revised site plan submitted. Please clarify the perimeter of the deck and clearly show the distance the deck is setback from the surrounding structures.
2. The revised elevation drawings submitted do not clearly show the deck, gates, and fences on the property. For instance, diagram 10A2 shows a structure that extends out from the garage, but fails to define what this structure is. In addition, the existing side yard gate is also not shown on this elevation. Please submit elevation drawings that clearly define the existing deck, fence, and gates located on the property, as requested in the incomplete letter dated March 10, 2004.
3. Please submit a color and material board that includes actual samples for the proposed garage, as previously requested.

According to your response letter dated March 24, 2004, you disagree with many of the preliminary merit items on my previous letter. As a result, these issues will be discussed before the Planning Board at a Public Hearing. In disagreeing with these items you are failing to address these violations of the Alameda Municipal Code, as noted in my previous letter dated March 10, 2004.

If you disagree with the decision regarding the incompleteness of your application and the additional requirements, you may appeal it to the Planning Board. To appeal a decision to the Planning Board, a \$122 base fee is required along with the appropriate form and 15-copies of any supporting plans and/or exhibits must be submitted to the Planning and Building Department, Room 190, 2263 Santa Clara Avenue, Alameda, within 10 calendar days (which would be no later than 5:00 p.m., Monday, May 3, 2004).

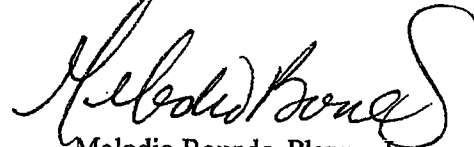
If a complete or amended project, as requested by this notice, is not received within 30 days of this notice, this application will be deemed by staff to be withdrawn. If you have any questions on this matter, please contact Melodie Bounds at (510) 747-6875.

(continued...)

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Planning & Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

Sincerely,

A handwritten signature in black ink, appearing to read "Melodie Bounds". The signature is fluid and cursive, with a large, sweeping "S" at the end.

Melodie Bounds, Planner I  
Planning & Building Department

Cc: Fred and Ursula Hogenboom, Property Owners  
George Carder, Supervising Building Inspector  
Tim Higaes, Code Compliance Officer  
Trisha Aljoe, Special Counsel



City of Alameda • California

July 22, 2004

Italo Calpestri  
1504 Park Street  
Alameda, CA 94501

Post-it® Fax Note	7671	Date	7/22	# of pages	1
To	Mr. Calpestri	From	Melodie Bounds		
Co./Dept.		Co.			
Phone #	522-6769	Phone #	747-6875		
Fax #	521-1427	Fax #			

RE: Variance V04-0005 and Major Design Review DR04-0013 at 913 Oak Street

Good Afternoon Mr. Calpestri:

Per our last meeting on May 2, 2004, I am currently awaiting revised drawings for the project proposed at 913 Oak Street. As per our phone discussion today, July 22, 2004, you indicated that the revised drawings would be ready for submittal on July 27<sup>th</sup> and that you would like to discuss the plans on that day at 2:30pm. I have asked Judith Altschuler and Tim Higaes to join us during our meeting to keep them informed on the status of this project as well. I would also like to extend the invitation to Mr. And Mrs. Hoggenboom. I look forward to seeing you on Tuesday, July 24<sup>th</sup> at 2:30pm.

Sincerely,

Melodie Bounds  
Planner I

CC: Fred and Ursula Hoggenboom, Property Owners  
Judith Altschuler, Supervising Planner  
Tim Higaes, Code Compliance Officer

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Planning & Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

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Attachment 11

# Italo A. Calpestri, AIA Architect & Associates

---

Member of the American Institute of Architects

September 1, 2004

Melodie Bounds, Planning & Building Department  
City of Alameda, City Hall  
Alameda, CA 94501  
747-6875 voice 747-6853 fax

Project: Variance and Major Design Review V04-0005, DR04-0013  
913 Oak St.  
Alameda, CA 94501

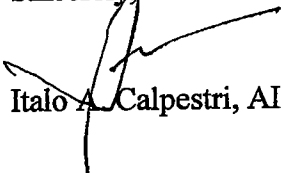
Dear Melodie,

Enclosed are three (3) copies of the project drawings for routing to other departments. Per your phone call yesterday, this project is tentatively scheduled for the September 27<sup>th</sup> Planning Board meeting.

You have also requested that drawing A1 include the lot coverage calculations and the rear yard coverage calculations. The roof pitches for the house and garage should also be indicated on the drawing.

We will provide you with additional sets of drawings for the Planning Board when notified.

Sincerely,



Italo A. Calpestri, AIA

cc: Fred & Ursula Hogenboom

Attachment 12

917 Oak Street  
Alameda.CA 94501

March 3, 2004

Planning and Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda.CA 94501  
Phone: 510.747.6888  
Fax: 510.747.6853

Dear Sirs:

My name is Raymond A. Pacovsky, and I live at 917 Oak Street, Alameda, CA. I am writing to you about the renovation and construction work that was done at 913 Oak Street without a Building Permit. I would like to bring to the attention of your Department the following unauthorized alterations that were done at the property:

1. The Western section of the chain-link fence separating the 913 Oak St. property from my 917 Oak Street property was demolished without authorization. This fence was built sometime in the 1970's with the former owner of the house, Mr. Fred Hoggenboom Senior, Fred's father, the current owner of the house. This permitted the new garage, constructed without permits, to be advanced by approximately 10 feet. Before a portion of the fence was demolished, the old fence went along the property line to where the old **detached** garage (built before 1942) stood. This was **behind** where my patio ended and the shed at 2262 San Jose Ave. formed a common boundary with the 913 Oak Street property.
2. There was the demolition of the fence at the boundary between 913 Oak St. and 909 Oak St. The building materials (redwood fencing) that were removed from the property line were not returned to the owner. The fence that was put in its place was significantly taller and not structurally compatible with the style of either the home at 909 Oak St. or at 913 Oak St.
3. The garage doors were removed from the old **detached** garage and moved forward from their previous position to a point at least 20 feet forward. The Hoggenboom's apparently wish to claim that this was the place where the previous garage doors once stood. However, this would not be possible since this would mean that there would be two windows (one kitchen and one pantry window) that would not face out into their driveway, but would face into the inside of their garage. This is obviously false since there are signs that this portion of their home was always exterior (exposed to the elements) and not interior. If there are questions about where the garage stood, they could be addressed to Ms. Jan Challand, 2234 Encinal Ave., 510-523-5576, a former tenant at the property or Mr. John William and Mary Kennedy, 1034 Fair Oaks, 510-522-1697, a former owner of the 913 Oak St. property.



4. The new roof on the garage built without permits blocks sun from our back garden and spoils the once lovely view that we had from our back porch at 917 Oak Street. Also, the new structure is completely out of character with the craftsman's style of the house at 913 Oak Street. The aluminum siding can easily cause an increase in dry rot that would happen in the wooden structures that stand adjacent to the new garage that was built without permits. The gutter and water catchment system overhangs our property line above our patio roof. No authorization was obtained from me to built such a structure above my property. This must be removed.

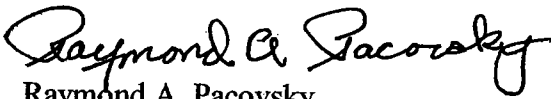
5. The water catchment system is actually inadequate. During the rains of December 2003, water from the roof of the house, which is now contiguous with the peaked roof of the illegal garage, cascaded down and overshot the rain gutters. This caused the patio at 917 Oak St. too flood. Previously there was sufficient space in the driveway at 913 Oak St. to allow drainage, but now with the garage built without permits significantly forward of the old space, there is no where for the drainage water to go.

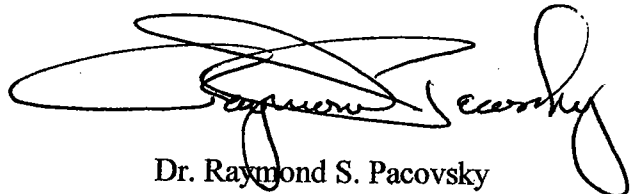
6. In an action that occurred many years ago, but was likely **also** performed without permits, the old back door from the house (which pointed north) was removed and the space was sealed. The former porch with its steps were removed. This porch was exterior to the detached garage, but you can not see where it once was since the new garage built without permits has encompassed this structure.

7. There were many days in December, 2003 and January, 2004 when workers came to the 913 Oak St. garage and continued building. This was in violation of the red "DO NOT BUILD" notice that the city placed on the property in early December, 2003. I saw workers carry back lumber, sawed with power tools, hammered with power tools to finish the structure. Roofing material was placed over the bare plywood that formed the roof, some down spouts were installed, the electrical system was completed all after the red "DO NOT BUILD" notice was in place. When I confronted these workers **several times**, they would stop work, leave and as soon as our two cars were gone (my wife and my son left for work or shopping), the workers returned and started their construction activities again even with the red "DO NOT BUILD" notice. If you wish to speak more about this, please do not hesitate to contact me at 510-522-2280.

Thank you for your time and attention.

Sincerely,

  
Raymond A. Pacovsky

  
Dr. Raymond S. Pacovsky

917 Oak Street  
Alameda, CA 94501

March 3, 2004

Planning and Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, CA 94501  
Phone: 510.747.6888  
Fax: 510.747.6853  
Email: [atai@ci.alameda.ca.us](mailto:atai@ci.alameda.ca.us)

Dear Sirs,

My name is Raymond S. Pacovsky, and I live at 917 Oak Street, Alameda, CA. I am writing to you about the renovation and construction work that was done at 913 Oak Street without a Building Permit. Last summer, starting in May or early June 2003, Fred Hoggenboom removed the old deck that was in the back of his house. Most of that wood was badly rotted. After the work began he erected a very tall fence between his property on the south side, as well as a very tall fence at the back. To the side facing 917 Oak St., no modification of the property line fence was made since we had erected the fence, paying 100% of the cost in 1972. However, TWO tall gates were erected in the driveway -- one near the front of the house and one near the back.

The fence in the back came off of the doors of the detached garage that formerly stood behind the house at 913 Oak St. except that the windows were painted black and then covered over from behind which prevented even a casual observer from seeing what was going on in the back of Mr. Hoggenboom's property.

Construction went on all summer long, but it was difficult to see what was going on since there were these two tall fences. Apparently the deck was completely redone, the hot tub repositioned, and within a short time the old garage was completely torn down. We had no way of knowing at the time that all this work had been performed **without** any Building Permits issued by the city of Alameda. Later, sometime in September, a new **two story** garage was constructed in its place. It went up so fast that there was no question that all was regular with permits and approvals from the city. The new, larger garage included the construction of a spacious second story and a sharper incline and new orientation to the roof. These alterations have subsequently resulted in the flooding to our patio and backyard. In December, it was brought to our attention that these revisions had been made by the owners without a building permit.

During the month of December, building inspectors from the city of Alameda made a surprise inspection at 913 Oak Street. Following this inspection, the city placed a "DO NOT CONSTRUCT" order on the property. The order, which the City Planning and Building Department placed on this new construction, has subsequently been violated. Builders have come to place reinforcing beams under the garage roof (cut by hand instead of using power tools to avoid the noise), and they installed some partial walls (perhaps to avoid water damage by the



rains) in the partially finished garage. In addition, they installed down spouts to the northeast corner of the house and to the garage during the heavy rains in December (hammered by hand instead of using power tools), and they placed roofing materials over certain unfinished portions of the garage's roof and sides. The builder was heard asking the owner about where he wanted the electrical outlets and lights placed, anticipating or initiating new construction. Even the sign that your office left has subsequently been removed from the fence on which it was placed.

Normally it is possible for neighbors to make comments about the possible alterations that the current owners wish to make to existing properties. Since the owners at 913 Oak Street did not go through the proper procedures, we at 917 Oak Street have never been given the opportunity to comment on the type of construction that was envisioned. The roof of the new garage at 913 Oak Street, which is now contiguous with the roof of the house at the northeast corner, allows water to cascade off of the north facing incline of the house and garage roof, which then flows onto the roof of our patio. This water subsequently cascades onto the ground where it cannot drain quick enough, and so our backyard and then our basement has been inundated.

Previously the significantly smaller and lower garage roof (there was no second floor), was flat with a slight incline to the west, rather than to the north and south. The water on the 913 Oak Street garage used to flow towards the west and emptied into a San Jose Avenue house backyard. Now, with the pitched incline of the new garage roof, half of the water falling on the garage is directed onto the roof of the storage shed associated with a property on San Jose Avenue. Subsequently ALL of this water then flows down onto our patio and then into our backyard. During the December 2003 rains, our patio flooded REPEATEDLY. Our patio has never flooded during the 47 years that we have lived in this home. Only after the 2003 alterations to our neighbor's garage, which permitted water to flow off of the large surface area of the house roof onto the much higher and steeply pitched roof of the garage, did our property get inundated.

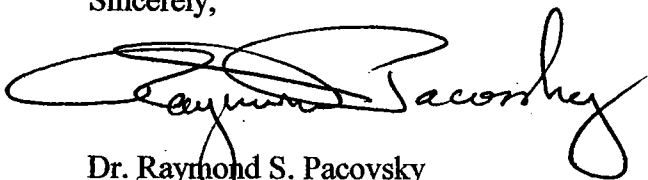
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I am in doubt of what will happen at this time. I have contacted the City Planning and Building Department, and I have been told that they are aware of the Code violations. The Planning and Building Department did not indicate what actions they intend to take.

If you wish to speak more about this, please do not hesitate to contact me at 510-522-2280.

Thank you for your time and attention.

Sincerely,

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Dr. Raymond S. Pacovsky

917 Oak Street  
Alameda, CA 94501

September 10, 2004

City Planning Department  
Attn: Ms. Melodie Bounds  
City Hall, Room 190  
2263 Santa Clara Ave.  
Alameda, CA 94501

Dear Ms. Bounds:

We both live at 917 Oak Street, here in Alameda, our permanent address for the last 47 years. Our home is next to 913 Oak Street, where there has been extensive revisions without a city building permit. Both of us have previously written three letters to the city regarding the building activity on going at 913 Oak Street, even after the Planning Department placed a "DO NOT CONSTRUCT" order on the property. I have annexed these letters to the one that I am writing now so as to bring you up to date with the garage and deck that was built **without permits** at 913 Oak Street.

On my father's birthday, April 19, there were again workers performing construction on the garage. Electrical work was done and lights were installed. There may have also been work performed on the garage roof since afterwards there was some damage done to the neighbor's garage roof (access is from San Jose Avenue). This damage was reported to the neighbor and to City Councilwoman Barbara Kerr, who had taken some interest in this case. At the time she indicated that she had been told that the garage was being enlarged to accommodate a wood shop with possible commercial functions. If this is the case, then there is a potential violation of city codes. This is a residential neighborhood, and 913 Oak Street is **not zoned** for commercial activities.

Our most serious complaint regards the roof of the new garage at 913 Oak Street, which is now contiguous with the roof of the house at the northwest corner, and allows water to cascade off of the north facing incline of the house and garage roof. The catchment system is not only inadequate for the amount of water that spills off the combined roofs, but the final drainage pipe dumps the water that is collected on the property line next to our patio that floods (see the March 3, 2004 letter). The **excess water** not caught by the drainage system then flows onto the roof of our patio and subsequently cascades onto the ground where it cannot drain quick enough. Therefore, our backyard and then our basement were inundated in the winter of 2003/2004. Previously, our patio never flooded during the 47 years that we have lived in this home which was reported to your office on January 14, 2004.

On or about May 14, 2004, it became evident how water drainage changed in our backyard. I and a friend Milton G. Fries were painting the back bedroom at 917 Oak Street using latex paint. At the end of the job, I was washing out the latex paint from the roller at a spot in the southwest



corner of our backyard, and the diluted paint was draining into the soil. I have washed out paint brushes and rollers at this spot before and there had never been a problem in the past. Suddenly Mr. Fred Hogenboom began cursing and ranting about paint that was appearing in his drive way. I had no opportunity to see what he was talking about since the fence on the property line prevented a view of his driveway. More importantly, the fence with blackened windows that he constructed to prevent people on the sidewalk from observing the construction of a garage **without city permits** did not permit me to see what he was talking about. Mr. Fries is willing to come to city hall and give sworn testimony about the events on May 14, 2004.

One week later, Mr. Hogenboom placed at least 2 inches of gravel in his driveway. Ironical, isn't it, that the problem that Mr. Hogenboom created with the water cascading off of his garage roof should later result in his inconvenience when I rinsed out my roller? It is important to understand that the water coming off of his roof is undermining the foundation of the patio at 917 Oak Street. The water that flooded our patio has caused a great deal of clay and silt to be washed into a lower horizon of the soil profile. The formation of a hardpan is what caused the diluted paint to show up on the 913 Oak Street side of the property line, has permitted water to collect and flood our backyard, and likely has caused the foundation of the patio to be weakened.

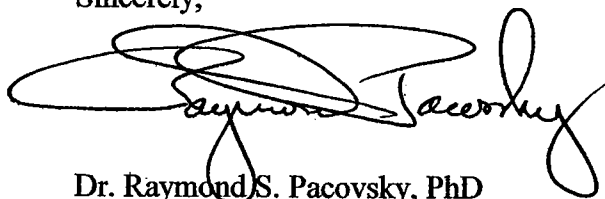
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In addition to this letter, which is addressed to you, Ms. Bounds, I will prepare a more formal letter of complaint to the Planning Board, with photographs. In this letter, I will make a case for why the Variance (V04-0015) to AMC, Subsection 30-4.4 (d)(6), that is the required setback of 5 feet from the north-side property line, **should not be granted**. In addition, building the deck and stairs up to the south wall may likely impact drainage for the entire area as well, and so Variance (V04-0017) to AMC, Subsection 30-5.7 (e)(1), that is the required setback of 5 feet from the south-side property line, **should not be granted**.

If I can be of further assistance to you, please do not hesitate to contact me at 510-522-2280 or [pacovskyr@alamedanet.net](mailto:pacovskyr@alamedanet.net)

Thank you for your time and attention.

Sincerely,



Dr. Raymond S. Pacovsky, PhD



Mr. Raymond A. Pacovsky



917 Oak Street  
Alameda, CA 94501

March 3, 2004

Planning and Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, CA 94501  
Phone: 510.747.6888  
Fax: 510.747.6853

Dear Sirs:

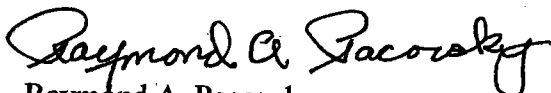
My name is Raymond A. Pacovsky, and I live at 917 Oak Street, Alameda, CA. I am writing to you about the renovation and construction work that was done at 913 Oak Street without a Building Permit. I would like to bring to the attention of your Department the following unauthorized alterations that were done at the property:

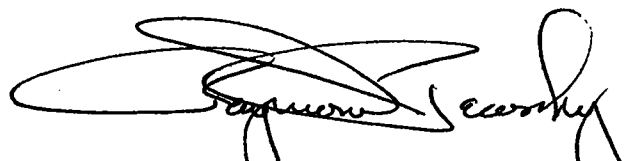
1. The Western section of the chain-link fence separating the 913 Oak St. property from my 917 Oak Street property was demolished without authorization. This fence was built sometime in the 1970's with the former owner of the house, Mr. Fred Hoggenboom Senior, Fred's father, the current owner of the house. This permitted the new garage, constructed without permits, to be advanced by approximately 10 feet. Before a portion of the fence was demolished, the old fence went along the property line to where the old **detached** garage (built before 1942) stood. This was **behind** where my patio ended and the shed at 2262 San Jose Ave. formed a common boundary with the 913 Oak Street property.
2. There was the demolition of the fence at the boundary between 913 Oak St. and 909 Oak St. The building materials (redwood fencing) that were removed from the property line were not returned to the owner. The fence that was put in its place was significantly taller and not structurally compatible with the style of either the home at 909 Oak St. or at 913 Oak St.
3. The garage doors were removed from the old **detached** garage and moved forward from their previous position to a point at least 20 feet forward. The Hoggenboom's apparently wish to claim that this was the place where the previous garage doors once stood. However, this would not be possible since this would mean that there would be two windows (one kitchen and one pantry window) that would not face out into their driveway, but would face into the inside of their garage. This is obviously false since there are signs that this portion of their home was always exterior (exposed to the elements) and not interior. If there are questions about where the garage stood, they could be addressed to Ms. Jan Challand, 2234 Encinal Ave., 510-523-5576, a former tenant at the property or Mr. John William and Mary Kennedy, 1034 Fair Oaks, 510-522-1697, a former owner of the 913 Oak St. property.

4. The new roof on the garage built without permits blocks sun from our back garden and spoils the once lovely view that we had from our back porch at 917 Oak Street. Also, the new structure is completely out of character with the craftsman's style of the house at 913 Oak Street. The aluminum siding can easily cause an increase in dry rot that would happen in the wooden structures that stand adjacent to the new garage that was built without permits. The gutter and water catchment system overhangs our property line above our patio roof. No authorization was obtained from me to built such a structure above my property. This must be removed.
5. The water catchment system is actually inadequate. During the rains of December 2003, water from the roof of the house, which is now contiguous with the peaked roof of the illegal garage, cascaded down and overshot the rain gutters. This caused the patio at 917 Oak St. too flood. Previously there was sufficient space in the driveway at 913 Oak St. to allow drainage, but now with the garage built without permits significantly forward of the old space, there is no where for the drainage water to go.
6. In an action that occurred many years ago, but was likely **also** performed without permits, the old back door from the house (which pointed north) was removed and the space was sealed. The former porch with its steps were removed. This porch was exterior to the detached garage, but you can not see where it once was since the new garage built without permits has encompassed this structure.
7. There were many days in December, 2003 and January, 2004 when workers came to the 913 Oak St. garage and continued building. This was in violation of the red "DO NOT BUILD" notice that the city placed on the property in early December, 2003. I saw workers carry back lumber, sawed with power tools, hammered with power tools to finish the structure. Roofing material was placed over the bare plywood that formed the roof, some down spouts were installed, the electrical system was completed all after the red "DO NOT BUILD" notice was in place. When I confronted these workers **several times**, they would stop work, leave and as soon as our two cars were gone (my wife and my son left for work or shopping), the workers returned and started their construction activities again even with the red "DO NOT BUILD" notice. If you wish to speak more about this, please do not hesitate to contact me at 510-522-2280.

Thank you for your time and attention.

Sincerely,

  
Raymond A. Pacovsky

  
Dr. Raymond S. Pacovsky

917 Oak Street  
Alameda, CA 94501

March 3, 2004

Planning and Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, CA 94501  
Phone: 510.747.6888  
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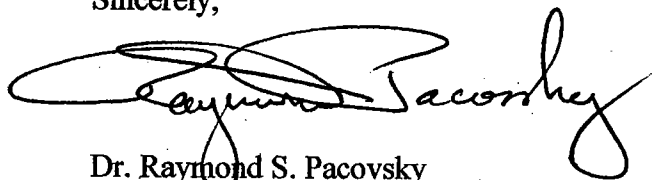
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Dr. Raymond S. Pacovsky

917 Oak Street  
Alameda, CA 94501

September 10, 2004

City Planning Department  
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City Hall, Room 190  
2263 Santa Clara Ave.  
Alameda, CA 94501

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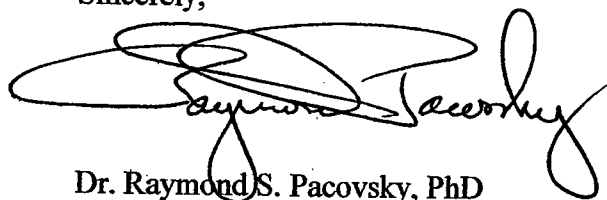
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Thank you for your time and attention.

Sincerely,



Dr. Raymond S. Pacovsky, PhD



Mr. Raymond A. Pacovsky





March 18, 2004

Dr. Raymond S. Pacovsky  
917 Oak Street  
Alameda, CA 94501

Dear Dr. Pacovsky,

This letter is to inform you that the Planning and Building Department has received your letter dated March 3, 2004 with comments regarding construction without permit at 913 Oak Street. In addition, we have also received your letter requesting a Historic Advisory Board Hearing to discuss the demolition of the old garage and new noncompliant garage structure.

Judith Altsculer, Secretary to the Historic Advisory Board, has the authority to process Demolition Permits at staff level for garages and accessory structures built prior to 1942. Hearings for the demolition of such structures are no longer part of the Demolition Permit process. Although the Property Owner of 913 Oak Street failed to apply for a Demolition Permit, it is likely that an application for Demolition would have been approved with conditions to restore the parking on the site because the original garage was not a significant historic structure.

The property owners have been informed of the HAB Demolition Permit process and are required to submit an application for review. The Code Enforcement Division has been informed that the garage was demolished without required permits and is investigating the complaint along with other code violations associated with this property.

Please be aware that Staff action is appealable to the Historic Advisory Board (HAB) and action by the HAB is appealable to the City Council. It is also important to note that HAB usually approves demolition that is after the fact since the building is already gone, and HAB does have the authority to apply conditions such as the reconstitution of required parking. However, HAB has no authority with regard to new construction or the concerns you have raised with regard to unauthorized work. Only the Planning Board and City Council have the authority to address these issues.

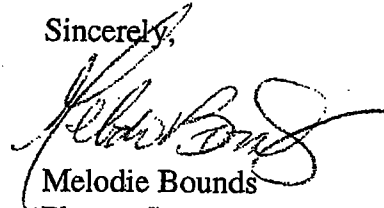
For your information, the Property Owners of 913 Oak Street have applied for a Variance to build the new garage without required setbacks. This application does require Planning Board approval and a public hearing. You and the surrounding neighbors (up to 100-feet) will be notified in writing once a hearing date is scheduled and will be given 10 days to comment on the project prior to the hearing. In addition, the public will be given an opportunity to comment on the project proposal during the scheduled hearing.

Planning & Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

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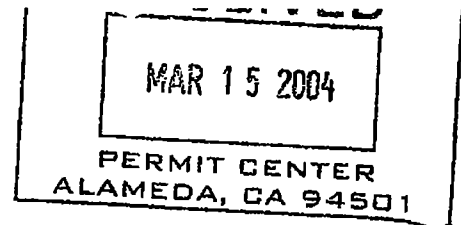
Again, thank you for your comments with regard to this project. If you have any questions please feel free to contact me directly at (510) 747-6875.

Sincerely,



Melodie Bounds  
Planner I

Cc: Raymond A. Pacovsky, 917 Oak Street  
Sarah Reamer, 2260A San Jose Avenue  
Maureen Gregg, 2262 A San Jose Avenue  
Sai Ling Young, 2262 San Jose Avenue  
Tracy O'Shea, 2262 B San Jose Avenue



March 9, 2004

Historical Advisory Board of the City of Alameda  
Planning Department of the City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

Honorable Members:  
Respected Staff:

An old residential garage, pre 1942, was demolished without permits, and a new one was almost completed without permits. The address is **913 Oak Street**. The old garage was a detached, wooden structure, single story, with a flat roof. The house is a craftsman. The old detached garage was in harmony with it. A picture of the north wall of the old one is **Exhibit A**. Picture was taken from the adjoining property at 2262 San Jose Avenue.

The new almost completed garage has massed-produced aluminum siding, is now an addition to the house, has a larger footprint, and is much taller. A picture of the north wall of the new structure (house addition) is **Exhibit B**.

The neighbors believe that the applications for the proposed variance (V04-005) and the Major Design Review (DR04-0013) which were received after the demolition and construction, are a necessary, but not complete requirement. The demolition of a pre-1942 wooden structure and a replacement with a metal building are clearly the responsibility of the Historical Advisory Board. The members of the HAB are welcome to come onto the property of 2262 ( etc) San Jose Avenue to see for themselves the impacts of the new structure.

We believe that the new structure should be demolished, and that only an appropriate structure approved by the HAB should be built. This letter is a complaint about the illegal demolition and construction and a request for an HAB hearing. The undersigned also request notification of any hearings.

The neighbors have the following specific complaints:

1. The project needs review by the HAB. The old garage was a wooden structure built before 1942. It had horizontal wood siding and was single story. **Exhibit A**.
2. The new garage is made of aluminum siding. The garage's larger size and inappropriate material have a negative effect on the 1920 neighboring structures. The aluminum siding can be seen in **Exhibit C**

3. The new garage is not on the same footprint. The front doors of the old garage were taken off and moved forward in the Spring of 2003. They were moved at least twenty feet by the observations of one neighbor on Oak Street. A neighbor on San Jose Avenue saw the back wall of the garage separated from the back lot line of 913 Oak Street and moved toward Oak Street.

The new garage has a much larger footprint. The windows of the moved garage doors were painted black so that there could be no street view of the construction.

4. The new garage is not even entirely on the lot at 913 Oak Street. The eave of the roof of the new garage at 913 Oak Street now overhangs the garages at 2262 San Jose Avenue. **Exhibit C**

The space between new garage at 913 Oak and existing garage at 2262 San Jose Avenue has been reduced by approximately a factor of three so that the north wall appears to be on the San Jose property. **Exhibit D** Upon inspection, you will be able to see that the garages at 2262 San Jose Avenue have been there for a long time. They were built in the 1920's.

5. An aluminum sheath over the south side of the garage at 2262 San Jose Avenue was installed without the owner's permission. **Exhibit D** This will lead to dry rot because of rain flowing down between original wooden siding and the new aluminum sheet illegally attached to it. The original wooden wall will never be able to dry out.

5. The new garage is much taller than old structure. The volume of the garage has been increased greatly. The increased volume and the windows in the south wall of the new garage have caused the neighbors to believe that a residential or industrial use in the garage might be planned. The approved application for 200 amp service adds to the concerns. **Exhibit E**

6. New garage has peaked roof, **Exhibit B**, which causes rain to be diverted to the roof of garage at 2262 San Jose Avenue and the back patio of 917 Oak street. This causes extra water to flow onto properties at 2262 San Jose and 917 Oak Street. The back patio at 917 Oak is now flooding.

8. The new garage is no longer a completely detached structure, but an addition to the house. **Exhibit E**

E

Front Wall of New Garage at 913 Oak  
Is Forward of Back Wall of House

Garage is Now an Addition  
to the House.

Windows in South Wall of New  
Garage Have Led to Neighbors'  
Concern that this have a Residential Use.





Eaves of Roof of New Garage  
at 913 Oak St.  
Overlap Garages of 2262 San Jose Avenue

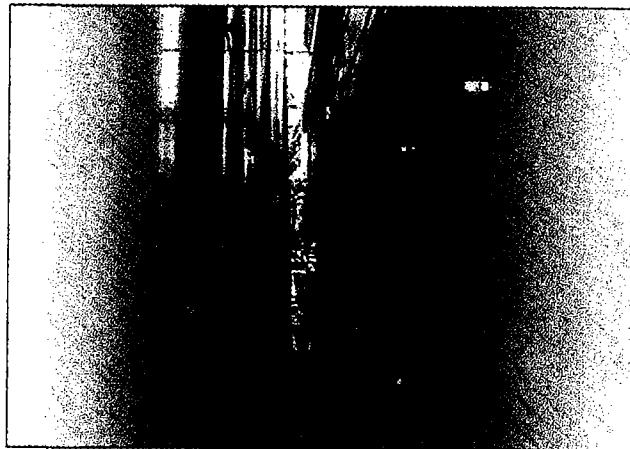


D

Gap Between Walls of Garages  
at 2262 San Jose and 913 Oak  
Is Much less Than It Used to Be.

.....  
Aluminum Sheath Illegally Added  
to South Wall of Garages  
at 2262 San Jose.

Shiny reflection from Wall on Left.




Respectfully Submitted:

NAME

ADDRESS

TELEPHONE

  
RAYMOND S. PACOVSKI

917 OAK STREET

510-522-2280

Respectfully Submitted:

NAME	ADDRESS	TELEPHONE
SARAH REAMER Sarah Reamer	2260A SAN JOSE AVE ALAMEDA 94501	510/523-8293
Maureen Gregg Sai Ling young	2262A San Jose Alameda 94501 2262 SAN JOSE AVE Alameda CA 94501	510 523 9771 510-523-4603
Tracy O'Shea Tracy O'Shea	2262 B. San Jose Ave. Alameda, CA 94501	510-865-0316



March 18, 2004

Dr. Raymond S. Pacovsky  
917 Oak Street  
Alameda, CA 94501

Dear Dr. Pacovsky,

This letter is to inform you that the Planning and Building Department has received your letter dated March 3, 2004 with comments regarding construction without permit at 913 Oak Street. In addition, we have also received your letter requesting a Historic Advisory Board Hearing to discuss the demolition of the old garage and new noncompliant garage structure.

Judith Altsculer, Secretary to the Historic Advisory Board, has the authority to process Demolition Permits at staff level for garages and accessory structures built prior to 1942. Hearings for the demolition of such structures are no longer part of the Demolition Permit process. Although the Property Owner of 913 Oak Street failed to apply for a Demolition Permit, it is likely that an application for Demolition would have been approved with conditions to restore the parking on the site because the original garage was not a significant historic structure.

The property owners have been informed of the HAB Demolition Permit process and are required to submit an application for review. The Code Enforcement Division has been informed that the garage was demolished without required permits and is investigating the complaint along with other code violations associated with this property.

Please be aware that Staff action is appealable to the Historic Advisory Board (HAB) and action by the HAB is appealable to the City Council. It is also important to note that HAB usually approves demolition that is after the fact since the building is already gone, and HAB does have the authority to apply conditions such as the reconstitution of required parking. However, HAB has no authority with regard to new construction or the concerns you have raised with regard to unauthorized work. Only the Planning Board and City Council have the authority to address these issues.

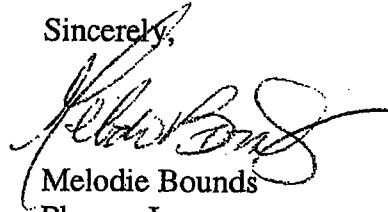
For your information, the Property Owners of 913 Oak Street have applied for a Variance to build the new garage without required setbacks. This application does require Planning Board approval and a public hearing. You and the surrounding neighbors (up to 100-feet) will be notified in writing once a hearing date is scheduled and will be given 10 days to comment on the project prior to the hearing. In addition, the public will be given an opportunity to comment on the project proposal during the scheduled hearing.

Planning & Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

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Again, thank you for your comments with regard to this project. If you have any questions please feel free to contact me directly at (510) 747-6875.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melodie Bounds', written over the word 'Sincerely,'.

Melodie Bounds  
Planner I

Cc: Raymond A. Pacovsky, 917 Oak Street  
Sarah Reamer, 2260A San Jose Avenue  
Maureen Gregg, 2262 A San Jose Avenue  
Sai Ling Young, 2262 San Jose Avenue  
Tracy O'Shea, 2262 B San Jose Avenue



## City of Alameda • California

March 18, 2004

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917 Oak Street  
Alameda, CA 94501

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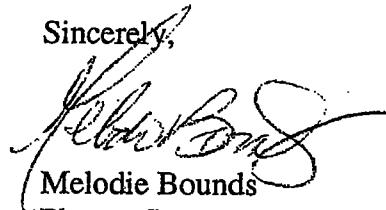
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Planning & Building Department  
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Melodie Bounds  
Planner I

Cc: Raymond A. Pacovsky, 917 Oak Street  
Sarah Reamer, 2260A San Jose Avenue  
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Sai Ling Young, 2262 San Jose Avenue  
Tracy O'Shea, 2262 B San Jose Avenue



917 Oak Street  
Alameda, CA 94501

September 16, 2004

TO: City Planning Department  
City Hall, Room 190, Alameda, CA 94501

FROM: Raymond S. Pacovsky

Raymond A. Pacovsky

RE: **Variances at 913 Oak Street**

Our family lives at 917 Oak Street, Alameda, our permanent address for the last 47 years. Our home is next to 913 Oak Street, where beginning in 2002 and continuing into 2003, there has been the construction of new fences, a new back porch, a new back deck, and a new garage in the **absence of city permits or variances.**

The owner of 913 Oak Street, Fred and Ursula Hogenboom, through their applicant Italo Calpestri are now requesting a major design review and four variances **retroactively** to try and legalize the extensive construction that was performed, and which does not conform with Alameda Municipal Codes (AMC). The city should neither grant the major design review (DR04-0013) nor Variance (V04-0015), pursuant to AMC, Subsection 30-4.4 (d)(6), which is the required setback of 5 feet from the north-side property line, since this structure **adversely affects our property directly.** Neither should Variance (V04-0005), pursuant to AMC, Subsection 30-4.4 (d)(7), which is the 20 foot rear yard setback, nor Variance (V04-0017) pursuant to AMC, Subsection 30-5.7 (e)(1), which is the required setback of 3 feet from the south-side property line, be granted as it will impact drainage for all of the neighbors to the 913 Oak Street property.

#### **1. Major Design Review (DR04-0013)**

Any new garage should not exceed the previous garage's "footprint" (that is the area, in square feet, that the old garage occupied) nor should exceed the previous garage's volume (in cubic feet). This would allow any new structure to conform to the original architectural design and style of the neighborhood. It would also prevent any new structure from blocking the sun from our back garden and the view from our back porch (mentioned in the letter of March 3, 2004, point 4; copy attached). It is possible to note in **Photograph Number 1** that the view from our back porch has been seriously affected. Keep in mind that the original garage was only one story tall, not two stories tall, as is the present structure.

It is possible to note a small portion of the view that we once had (**Photograph Number 1**). You can see a green sweet gum tree to the right side and other trees visible through the opening and



PHOTOGRAPH  
NUMBER  
1



PHOTOGRAPH  
NUMBER  
2

*[Handwritten signature]*

windows left of center in the photograph. There are other trees which the garage completely blocks. During the summer, this structure also blocks our view of the sunset.

However, significantly more important is the fact that the newer larger structure, as well as all of the cement that was poured in the backyard at 913 Oak Street, has affected water drainage for all the neighboring properties. (See point 2 below regarding **Variance (V04-0015)**, pursuant to AMC, Subsection 30-4.4 (d)(6).) The patio of our home at 917 Oak Street flooded repeatedly during the winter of 2003-2004, and this was the first time that our patio flooded in the last 47 years (see second letter of March 3, 2004).

The original garage was situated approximately 5 feet back from the former rear door and porch of the 913 Oak Street house. The current structure, built in violation of AMC, is at least 10 feet in front of the previous garage doors (see March 3, 2004 letter). At least 10 feet of the chain-link fence that forms the property line between 913 Oak Street and 917 Oak Street was removed **without our knowledge or permission** when the construction was performed (see March 3, 2004 letter, point 2).

The 913 Oak Street garage uses aluminum siding, which is not stylistically compatible with the shingle exterior of the house at 913 Oak Street (see **Photograph Number 1 and 2**). Considering the large, two-story size, this makes the structure a considerable eye sore.

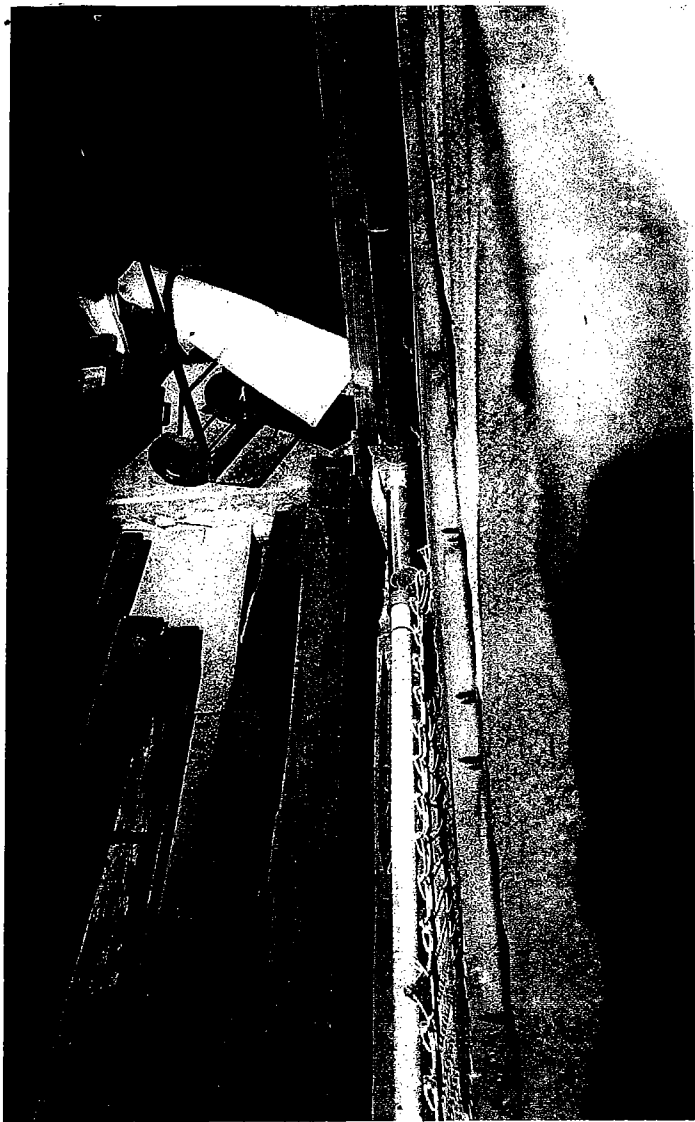
The aluminum siding (see **Photograph Number 3**) and the rain gutter of the water catchment system (see **Photograph Number 2**) are clearly over the property line. **The wall of the garage is built right up to and perhaps is a quarter to a half inch over the property line.** The chain link fence is situated directly over the property line. You can see where a 10 foot section of the fence has been removed ( March 3, 2004 letter, point 2) to make way for the garage and the down spout of the drainage system. At a minimum, the aluminum siding must be removed and the roof altered so that the rain gutter (see **Photograph Number 3**) does not jut out over the property line.

The down spout of the drainage system opens up right on the property line at a point where the patio floods (**Photograph Number 3**). At least half of the water from the drainage system on the 913 Oak Street garage now flows onto our property at 917 Oak Street. This is a clear violation of our property rights and a potential case for civil litigation. As you are aware, excess water accumulation is an invitation for dry rot, soft rot and structural damage, and one property owner does not have the right to dump his water onto another's property. One wonders why this down spout was never connected to the storm drain system in the street. Could it have been that construction done without city permits is not up to proper building standards?

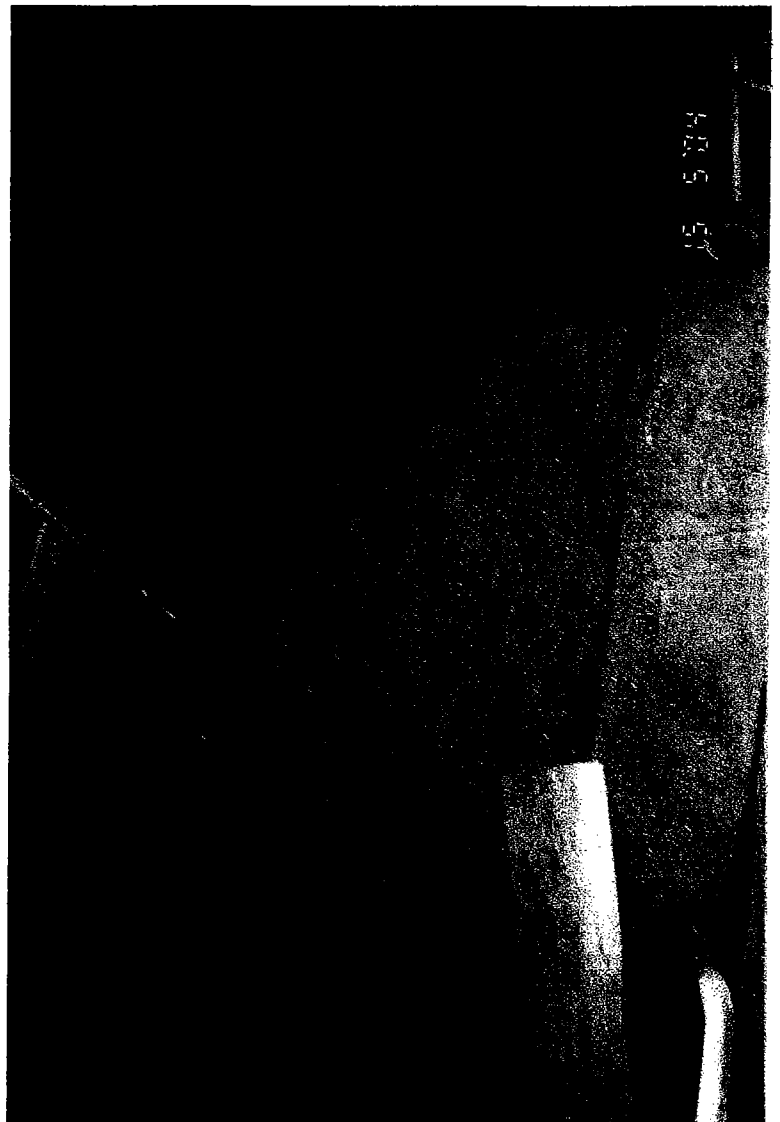
After the work began in 2002, Mr. Fred Hogenboom erected a very tall fence on the south side of his property, as well as a very tall fence at the back. To the side facing 917 Oak St., no modification of the property-line fence (a chain link fence) was made, except where 10 feet of fence were removed (as noted above). However, TWO tall gates were erected in the driveway -- one near the front of the house and one near the back (see second letter of March 6, 2004).

The fence in the back came from the doors of the former detached garage that stood **behind** the





PHOTOGRAPH  
NUMBER  
3



PHOTOGRAPH  
NUMBER  
4

*[Handwritten signature]*

house at 913 Oak Street, except that the windows were painted black and then covered over from behind with plywood. This prevented even a casual observer from seeing what was going on in the back of Mr. Hogenboom's property, and indicated that Fred knew that he was about to break the law when he set out to build without obtaining city variances or permits.

In addition, even after the city posted "DO NOT CONSTRUCT" signs on the property in December, 2003, Mr. Hogenboom allowed work to continue on the property (see both March 3, 2004 and September 10, 2004 letters). We noted construction activity, wrote down the dates during the months of March and April. These dates were communicated to Councilwoman Barbara Kerr (various e mails) who owns a property in the neighborhood. On April 5, 2004, there were again workers performing construction on the garage. There was some work performed on the garage roof since afterwards there was a covered hole in the 913 Oak Street garage, perhaps for an exhaust structure, and there was some damage done to the neighbor's garage roof (access is from San Jose Avenue; see damage in **Photograph Number 2** taken on April 11, 2004). On R.A. Pacovsky's birthday, April 19, 2004, electrical work was done and lights were installed.

One imagines that a tool was dropped or someone stepped on the roof and it gave way during the construction that was performed on April 5, 2004. This damage was reported to the neighbor and to City Councilwoman Barbara Kerr, who had taken some interest in this case. At the time Ms. Kerr indicated that she had been told that the garage was being enlarged to accommodate a wood shop with possible commercial functions. If this is the case, then there is a potential violation of city codes. This is a residential neighborhood, and 913 Oak Street is **not zoned** for commercial activities.

Considering that Mr. Hogenboom has a such a marked lack of regard for city regulations and codes, I do not believe that the city can take a chance to allow the construction of a garage that has at least a 20% greater footprint and at least twice the volume of the former detached structure. The hole that has been cut in the roof for an exhaust structure of some sort could be in preparation for a kitchen or bathroom exhaust system. Is the second story being prepared as a "mother-in-law" apartment for a Hogenboom family member?

The city should now require that the 913 Oak Street garage **be demolished**. Anything less is rewarding homeowners who engage in illegal construction. The city should not grant the Major Design Review (DR04-0013). A new garage could be built at 913 Oak Street if the owners were to submit plans, obtain an approved Major Design Review prior to construction and procured the appropriate permits. Then city building inspectors could determine that construction was up to code. It seems appropriate that any new structure conform to the property setbacks as specified by Alameda Municipal Codes.

One wonders how a citizen of Alameda would have the gall to build a structure without seeking building permits and variances. In the summer and fall of 2001, construction was performed at a neighbor's house at 914 Oak Street without city building permits. The basement was reformatted with new doors, windows and electrical systems so as to accommodate the father of one of the owners who now lives in this new apartment. We wonder if this expansion has been done in



violation of Measure A. The Alameda Planning and Building Department apparently has a complaint on file regarding this unapproved construction. When Mr. Hogenboom saw that others on Oak Street could circumvent city regulations he was encouraged to do the same. I request that the Alameda Planning Department **not reward** another neighbor for such illegal actions by granting the variances that are being requested by Mr. Italo Calpestri.

## **2. Variance (V04-0015), pursuant to AMC, Subsection 30-4.4 (d)(6)**

Previously the significantly smaller and lower garage roof (there was no second floor), was flat with a slight incline to the west, rather than to the north and south. The water on the 913 Oak Street garage used to flow towards the west and emptied into a side yard for a San Jose Avenue house. The water catchment system presently installed on the 913 Oak Street garage is actually inadequate. During the rains of December 2003, water from the roof of the house, which is now contiguous with the peaked roof of the garage (see **Photograph Number 1**), cascaded down and overshot the rain gutters. Note: previously the garage was a detached structure, and now it is attached to the house at 913 Oak Street.

Now, with the pitched incline of the new garage roof, half of the water overshooting the water catchment system is directed onto the roof of the storage shed associated with a property on San Jose Avenue. Subsequently ALL of this water then flows down onto our patio and then into our backyard. During the December 2003 rains, our patio flooded REPEATEDLY. Our patio has never flooded during the 47 years that we have lived in this home (see March 6, 2004 letter). Only after the 2002-2003 alterations to our neighbor's garage, which permitted water to flow off of the large surface area of the house roof onto the much higher and steeply pitched roof of the garage, did our property get inundated.

The extreme closeness between the 913 Oak Street garage and the garage at San Jose Avenue results in a complete lack of air circulation (see **Photograph Number 2**). The space will not dry between these garages, and the garage at San Jose Avenue will certainly suffer soft rot, dry rot and structural damage. This will not be the case if there is the required 5 foot setback. Our property has aluminum siding, which has over the years suffered oxidation. (The aluminum patio was installed in 1968.) However, that portion near the new garage will suffer additional, accelerated oxidation if there is not the appropriate set back.

On or about May 7, 2004, it became evident how water drainage changed in our backyard. I and a friend Milton G. Fries were painting the back bedroom at 917 Oak Street using latex paint. At the end of the job, I was washing out the latex paint from the roller at a spot in the southwest corner of our backyard, and the diluted paint was draining into the soil. I have washed out paint brushes and rollers at this spot before and there had never been a problem in the past. Suddenly Mr. Fred Hogenboom began cursing and ranting about paint that was appearing in his drive way (see September 10, 2004 letter).

At the time, I had no opportunity to see what Mr. Hogenboom was talking about since the fence on the property line prevented a view of his driveway. More importantly, the fence with blackened windows that he constructed to prevent people on the sidewalk from observing the



construction of a garage **without city permits** did not permit me to see what he was talking about. Later I was able to note that the diluted paint carried by the water appeared at a spot approximately 6 inches from the mouth of the down spout (see **Photograph Number 3**). Mr. Fries is willing to come to city hall and give sworn testimony about the events on May 14, 2004.

One week later, Mr. Hogenboom placed at least 2 inches of gravel in his driveway (see **Photograph Number 4**). We find it ironic that the problem that Mr. Hogenboom created with the water cascading off of his garage roof should later result in his inconvenience when I rinsed out my roller.

It is important to understand that the water coming off of his roof is undermining the foundation of the patio at 917 Oak Street. The water that flooded our patio has likely caused a great deal of clay and silt to be washed into a lower horizon of the soil profile. The formation of a hardpan is probably what caused the diluted paint to show up on the 913 Oak Street side of the property line, has permitted water to collect and flood our backyard, and likely has caused the foundation of the patio to be weakened.

The garage at 913 Oak Street will significantly impact our privacy. **Photograph Number 1** indicates that the garage will have an opening facing east above the garage doors. Such an opening will seriously affect the privacy at 917 Oak Street, as this will allow anyone in the garage to peer into the back bedroom or into the kitchen at 917 Oak Street.

The city should not grant the Variance (V04-0015), pursuant to AMC, Subsection 30-4.4 (d)(6), which is the required setback of 5 feet from the north-side property line, since this structure **adversely affects 917 Oak Street directly**.

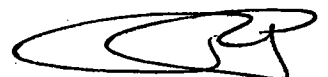
### **3. Variance (V04-0005), pursuant to AMC, Subsection 30-4.4 (d)(7)**

Setbacks are specified by the city to serve important functions. Such a space allows city police, firefighters, or emergency personnel access to a property or to neighboring properties in the case of an emergency. By removing the rear yard setback of 20 feet, our property at 917 Oak Street, and the neighboring properties both on the San Jose Avenue and on the Clinton Avenue side are at risk in the case of a fire or a natural disaster.

In addition, and in this case, more importantly, it is clear from the rains of the 2003-2004 winter season, that this illegal garage creates significant drainage problems. Without the necessary setbacks, water that falls on the property at 913 Oak Street now cascades into neighboring yards or exits from a down spout NOT connected to the city storm drain system and inundates the patio at 917 Oak Street, rather than soaking into the ground at 913 Oak Street.

The city Of Alameda should not grant Variance (V04-0005), pursuant to AMC, Subsection 30-4.4 (d)(7), which is the 20 foot rear yard setback since it limits the access of emergency personnel to our property and impacts drainage for the north and west side neighbors to 913 Oak Street.

### **4. Variance (V04-0017) pursuant to AMC, Subsection 30-5.7 (e)(1)**



Setbacks between side yards where there are no structures, only fences, are specified by the city because they still serve important functions. Some of these functions have been mentioned in Section 3 above, **Variance (V04-0005)**. The Alameda Municipal Codes Subsection 30-5.7 (e)(1) specify that there must be a required setback of 3 feet from the south-side property line at 913 Oak Street. If the city grants this variance, it will impact drainage for all of the neighbors.

By building up the level of the 913 Oak Street property by **30 inches in height**, any water that falls here will be channeled towards the north of the 913 Oak Street property and towards our property at 917 Oak Street. A thirty inch drop will give this water a good deal of kinetic energy, and it will be able to travel significantly farther than if the water fell on the ground.

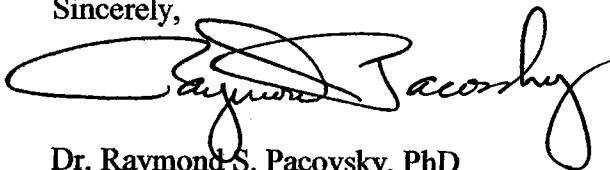
Considering that the driveway at 913 Oak Street has been increased by two inches, the water will continue to flow to 917 Oak Street. As mentioned above (see **Major Design Review**), this is a clear violation of our property rights and a potential case for civil litigation. Excess water accumulation is an invitation for dry rot, soft rot and structural damage, and one property owner does not have the right to dump his water onto another's property. The city should not grant **Variance (V04-0017)** pursuant to AMC, Subsection 30-5.7 (e)(1), which is the required setback of 3 feet from the south-side property line.

In summary, the major design review (DR04-0013), **Variance (V04-0015)** to AMC, Subsection 30-4.4 (d)(6), **Variance (V04-0017)** to AMC, Subsection 30-5.7 (e)(1), **Variance (V04-0005)**, to AMC, Subsection 30-4.4 (d)(7), and **Variance (V04-0017)** to AMC, Subsection 30-5.7 (e)(1) **should not be granted**.

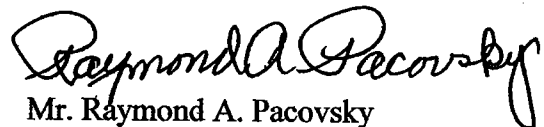
If I can be of further assistance to you, please do not hesitate to contact any of us at 510-522-2280 or [pacovskyr@alamedanet.net](mailto:pacovskyr@alamedanet.net)

Thank you for your time and attention.

Sincerely,



Dr. Raymond S. Pacovsky, PhD



Mr. Raymond A. Pacovsky

cc/ Alameda Sun  
Alameda Times Star  
Oakland Tribune  
Mayor Beverly Johnson  
City Councilwoman Barbara Kerr  
W.F., Attorney at Law



# Italo A. Calpestri, AIA Architect & Associates

Member of the American Institute of Architects

September 15, 2004

SEP 15 2004

Melodie Bounds, Planning & Building Department  
City of Alameda, City Hall  
Alameda, CA 94501  
747-6875 voice 747-6853 fax

Project: Variance and Major Design Review V04-0005, DR04-0013  
913 Oak St.  
Alameda, CA 94501

V04-0015  
V04-0016  
V04-0017

At your request, enclosed are 15 full size sets of A1 and A2 for the Variance application at 913 Oak St.

By copy of this transmittal, we are informing the applicants of your comments regarding the staff report and neighbor concerns.

1. Planning has received written comments about your application. These can be reviewed at the Planning Dept. or you can wait to read them as attached to the staff report (available by 9/23).

2. Planning has received an anonymous question that the garage eave possibly overhangs a property line. Planning was unsure if the question regarded the side or rear property line and asked if we had a survey of the property. In reviewing our file, we found the assessor map and legal description, but no survey. If the question of the property line does become an issue at the Planning Board meeting, they may request that a surveyor be hired to determine if there is any encroachment of the garage at the side or rear property lines.

3. The Planner can not make the recommendation to approve the Variance for either the new garage or for the raised deck because they do not comply with the Zoning Ordinances.

The Planning Board is receptive to well reasoned arguments as to why your Variance(s) should be approved.

Please let me know when you want to discuss any of these items. I suggest that we wait until we have reviewed the staff report and neighbor letters.

Sincerely,

Italo A. Calpestri, AIA

cc: Fred & Ursula Hogenboom

# Italo A. Calpestri, AIA Architect & Associates

Member of the American Institute of Architects

September 15, 2004

SEP 15 2004

Melodie Bounds, Planning & Building Department  
City of Alameda, City Hall  
Alameda, CA 94501  
747-6875 voice 747-6853 fax

Project: Variance and Major Design Review V04-0005, DR04-0013  
913 Oak St.  
Alameda, CA 94501

V04-00 15  
V04-00 16  
V04-00 17

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By copy of this transmittal, we are informing the applicants of your comments regarding the staff report and neighbor concerns.

1. Planning has received written comments about your application. These can be reviewed at the Planning Dept. or you can wait to read them as attached to the staff report (available by 9/23).
2. Planning has received an anonymous question that the garage eave possibly overhangs a property line. Planning was unsure if the question regarded the side or rear property line and asked if we had a survey of the property. In reviewing our file, we found the assessor map and legal description, but no survey. If the question of the property line does become an issue at the Planning Board meeting, they may request that a surveyor be hired to determine if there is any encroachment of the garage at the side or rear property lines.
3. The Planner can not make the recommendation to approve the Variance for either the new garage or for the raised deck because they do not comply with the Zoning Ordinances.

The Planning Board is receptive to well reasoned arguments as to why your Variance(s) should be approved.

Please let me know when you want to discuss any of these items. I suggest that we wait until we have reviewed the staff report and neighbor letters.

Sincerely,

Italo A. Calpestri, AIA

cc: Fred & Ursula Hogenboom

**CITY OF ALAMEDA PLANNING BOARD  
RESOLUTION NO. PB-04-60**

**A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA DENYING VARIANCES, V04-0005, V04-0015, V04-0016, V04-0017, AND MAJOR DESIGN REVIEW, DR04-0013, AT 913 OAK STREET**

WHEREAS, an application was made on February 25, 2004, by Italo A. Calpestri for property owners, Fred and Ursula Hogenboom, for Variance and Major Design Review approval to The applicant requests Major Design Review and Variance approval to permit the construction of a rear deck and garage addition to the existing single family dwelling that was under construction without City permits. The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south side and west rear property lines. The garage addition is an expansion of the existing dwelling up to the north side and west rear property lines. The applicant is requesting the following Variances:

- 1) Variance to AMC Subsection 30-5.7(c) (2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height.
- 2) Variance to AMC Subsection 30-5.7(c) (2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height.
- 3) Variance to AMC Subsection 30-4.4(d)(7) to construct a garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards.
- 4) Variance to AMC Subsection 30-4.4(d)(6) to construct a garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards.

WHEREAS, the application was accepted as complete on July 29, 2004; and

WHEREAS, the subject property is designated Medium-Density Residential in the General Plan Diagram; and

WHEREAS, the subject property is located in an R-4, Neighborhood Residential Zoning District; and

WHEREAS, the Planning Board held a public hearing on this application on September 27, 2004 and has examined pertinent maps, drawings, and documents; and

WHEREAS, the Planning Board is unable to make all of the following required findings in order to support approval for the Variances to permit the construction of the rear deck and attached garage:

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The Planning Board cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with the same size limitations and advantages. The property owner has created a self imposed hardship by constructing a nonconforming deck that extends up to the side property line, measures thirty inches in height and requires a stair with landing for access.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The Planning Board cannot make this finding. The proposal to retain the already constructed stair and landing within the side and rear property lines has the potential to create increased traffic and noise along the south side yard, which may be injurious to the adjacent and abutting residential properties located to the south.

Rear Setback (garage addition) V04-0005:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The Planning Board cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The Planning Board cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby determines that the proposal is Statutorily Exempt under California Environmental Quality Act Guidelines, Section 15301 – Minor Alteration of Existing Structures.

BE IT FURTHER RESOLVED THAT the Planning Board of the City of Alameda hereby denies the Variance requests V04-0005 (Rear Setback—addition), V04-0015 (Side Setback—addition), V04-0016 (Rear & Side Setback—deck), V04-0017 (Side Setback—stairs and landing) and Major Design Review, DR04-00013 and Major Design Review for the construction of the rear deck, unenclosed stair and landing and structural expansion of the main dwelling into the required side and or rear yard setback:

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision by completing and submitting an appeal form and paying the required fee.

NOTICE. The Property Owner shall have thirty days (30) from the date of this Resolution No. PB-04-60 to submit revised plans to bring all unauthorized work into conformance either by removing the unauthorized construction or bringing the work into conformance with the regulations of the Alameda Municipal Code, California Building Code, and the items discussed in Section “D” of this report.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision or final action on any appeals plus extensions authorized by California Code of Civil Procedure Section 1094.6.

PASSED AND ADOPTED this 11th day of October 2004 by the Planning Board of the City of Alameda by the following vote:

AYES: (5) Cunningham, Cook, Mariani, McNamara and Piziali

NOES: (0)

ABSENT: (1) Lynch

ATTEST:



Gregory Fuz, Secretary  
City Planning Board

**Minutes of the Regular Planning Board Meeting  
Monday, October 11, 2004 – 7:00 p.m.**

1. CONVENE: 7:09 p.m.
2. FLAG SALUTE: Ms. McNamara
3. ROLL CALL: President Piziali, Cook, Cunningham, Mariani, and McNamara.

Board member Lynch was absent.

Also present were Planning & Building Director Greg Fuz, Development Review Manager Jerry Cormack, Assistant City Attorney David Brandt, Planner III David Valeska, Planner I Melodie Bounds, Councilmember Barbara Kerr.

4. MINUTES:
  - a. Minutes for the meeting of September 13, 2004 (**Continued from the meeting of September 27, 2004**)

A quorum for these minutes was not present, and they will be considered at the meeting of October 25, 2004.

M/S Cunningham/Cook and unanimous to continue the minutes for the meeting of September 13, 2004 to the meeting of October 25, 2004.

AYES – 5 (Lynch absent); NOES – 0; ABSTAIN – 0

- b. Minutes for the meeting of September 27, 2004.

Ms. Cook noted that the resolution for Item 7-C on page 4 erroneously indicated that the item had passed, and that it should have indicated a continuance to the meeting of October 11, 2004.

Ms. Cook noted that the second sentence on page 6, Item 10-A, should be changed to read, “There had been some discussion whether those in attendance had been regular meeting attendees, *and how to attract new participants as well.*”

Ms. Cook advised that the last sentence on page 6, paragraph 2, should be changed to read, “There were many existing leases and property owned by Alameda Collaborative, and it was suggested that *maybe* those spaces *could* be reconfigured to better blend with the rest of the community.”

8. REGULAR AGENDA ITEMS:

- 8-A **Major Design Review, DR04-0013 and Variances, V04-0005, 0015, 0016, 0017—Applicant, Italo Calpestri, for Property Owners, Fred and Ursula Hogenboom—913 Oak Street (MB).** The applicant requests Major Design Review and Variance approval to permit the construction of a rear deck and garage addition to the existing single family dwelling, which had been constructed without City permits. The rear deck is built up to the south side and rear property lines, while the garage addition is an expansion of the existing dwelling up to the north side and rear property lines. Approval is being sought for the following Variances: 1) Variance to AMC, Subsection 30-4.4(d)(7) because the dwelling extends into the required rear yard setback of twenty feet. 2) Variance to AMC, Subsection 30-4.4(d)(6) because the dwelling extends into the required side yard setback of five feet. 3) Variance to AMC, Subsection 30-5.7(c)(2)(6) because the rear deck is thirty inches in height and extends into the required rear and side yard setback of three feet. 4) Variance to AMC, Subsection 30-5.7(e)(1) because the stairs on the south side yard extends into the required three foot side yard setback. The site is located within an R-4, Neighborhood Residential Zoning District. **(Continued from the meeting of September 27, 2004.)**

Planner I Melodie Bounds summarized the staff report. Staff was unable to find any unique characteristics pertaining to the lot size, shape, topography or location. Because the lot was of adequate size, the property owners had the potential to build a fully compliant garage and rear deck, as noted on page 11 of the staff report. Staff recommended denial of the Major Design Review and Variance requests.

The public hearing was opened.

Ms. Barbara Kerr, 1822 Bay, noted that she was speaking as a private citizen. She believed the extension at the rear of the property line had a very negative impact on the neighborhood. She distributed a handout to the Board, which included an overhead view of the extension/garage, comparing its size with the cottages on San Jose. She noted that the extension was too large for the rest of the neighborhood. She noted that the 10-foot extensions had 15-foot peaks, which were not allowed. She had invited the Board members to visit the site. She did not believe that the extension should overhang the adjacent property, which had been there for 80 years. She objected to what amounted to an illegally sized industrial building in the neighborhood.

Mr. Nick Gravina spoke in favor of this item, and supported the applicants' replacement of an unattractive structure with a more attractive design. He noted that the applicants did not intend to convert the garage to a rental unit, and the height of the deck was designed to accommodate Mrs. Hogenboom's entry and egress from the deck following several hip surgeries. He believed that this improvement would be a benefit to the entire neighborhood.

Mr. Raymond S. Pacovsky, 917 Oak Street, spoke in opposition to this item and added that he lived on the north side of the applicants' property. He objected to the structure's placement overhanging the property line, as well as the location of the downspout which dumped water on the property line, which undercut the foundation. He noted that drainage was a serious problem, and noted that his parents' adjacent property flooded for the first time in many years because of the impact from the overhanging drain. He urged the denial of the Major Design Review and the Variance. He was disturbed that work has continued as recently as October 8, 2004.

Mr. Raymond A. Pacovsky, 917 Oak Street, spoke in opposition to this item and noted that he had submitted a letter to the City. He objected to the illegal work on the building that occurred one month after it was red-tagged. He did not believe the applicant had followed the true property lines. He noted that the plumbing and electrical systems in their hot tub had never been inspected.

President Piziali emphasized that the Board's mission was to examine the plans as if they were being presented as new construction.

Mr. Brandt confirmed President Piziali's assessment, and added that permit violations were handled by Code Enforcement and had separate penalties and fee structures.

Ms. Rosemary McNally, 2145 San Antonio, spoke in opposition to this item, and displayed a picture of the site. She believed the existing regulations should be enforced, and hoped there was another way to accommodate Mrs. Hogenboom's health needs.

Mr. Fred Hogenboom, applicant, 913 Oak Street, noted that the reconfiguration of the deck was done to ease his wife's medical problems. He noted that the placement of the stairs at the side of the house were more conducive to her abilities than to place them at the back door. He did not believe either suggestion by staff would be useful for their needs. He noted that the garage was approximately two inches away from the property line on the north side. He invited the Board to look at the property in person. He noted that the garage was attached to the house to gain some more useful space. He believed the neutral tone of the siding would be of more benefit to the neighbors than to himself. He believed the improvements would be an improvement to the neighborhood.

Mr. Italo Calpestri, 1504 Park Street, project designer, noted that he became involved in this project at the beginning of 2004 to resolve the outstanding issues from 2003. He noted that the staff report showed the foundation detail that did not include the site plan showing the layout of the original garage (built in 1924). He noted that the original garage was too small for modern use. He noted that three of the adjacent neighbors have buildings that abut the applicant's property at the rear yards.

The public hearing was closed for Board discussion.



Mr. Cunningham believed that the water ingress to the neighbors' property can be fixed with proper placement of gutters, and that the metal siding could be replaced. He believed the property line issue could be tweaked, and that the discrepancies could be fixed as well. He believed that the applicants pushed the envelope into the setbacks, and he could not make the findings for the Variance. He disagreed with the applicants' belief that the design benefited the neighbors, and noted that the neighbors' objections bore that observation out. He did not believe that the design should increase the density in an already-dense neighborhood.

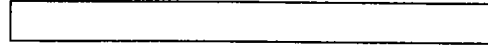
Ms. Mariani concurred with Mr. Cunningham's assessment of the Variances. She believed that the metal garage did not blend with the original wood design of the house, and was not in compliance with City design standards. She respected the applicant's attempt to accommodate his wife's mobility problems, and added that the neighbors also had the right to be free of property line encroachment.

Ms. Cook believed that the applicant's objectives could be achieved with an accessory garage, and a deck that was stepped back three feet from the property line or as 12-inch deck up against the property line.

In response to an inquiry by Ms. Cook, Mr. Cormack confirmed that it was not staff's practice to require surveys with an application at this time. When similar instances occur, staff normally advises the property owner that property line issues were a civil matter between the two property owners. Staff based its recommendations and plan checks based on plans provided by licensed professionals.

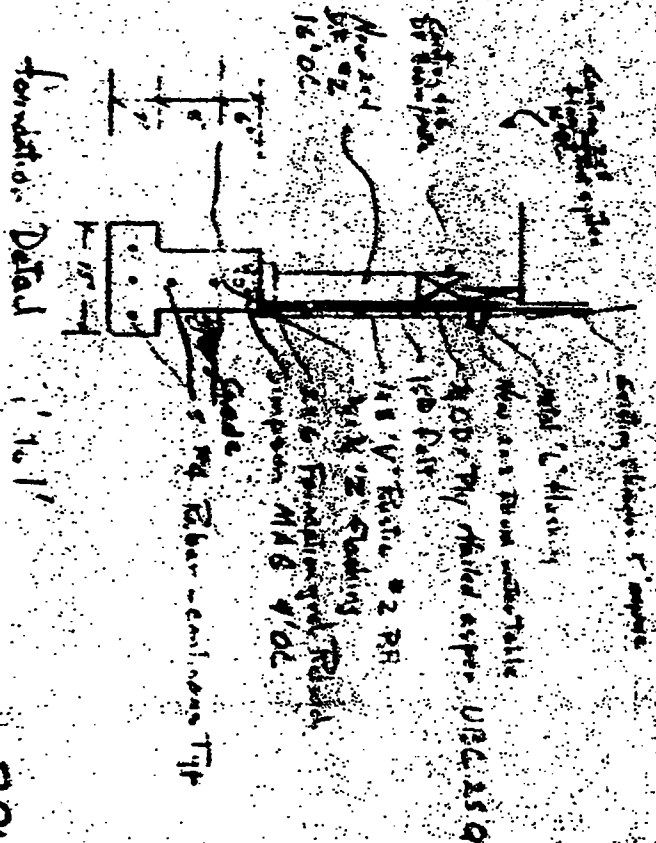
In response to an inquiry by President Piziali, Ms. Bounds confirmed that if the garage were detached from the house by approximately five feet and setback from the front property line by 75 feet, the garage could then be constructed up to the side and rear property line. Staff recommended that the garage be approximately 10 feet by 20 feet, which would fit a single car, that it could be potentially wider as long as it maintained the required setback from the main building and did not cover more than 40% of the rear yard.

M/S Cunningham/Cook and unanimous adopt Planning Board Resolution No. PB-04-60 to uphold staff's recommendation to deny a Major Design Review and Variance approval to permit the construction of a rear deck and garage addition to the existing single family dwelling, which had been constructed without City permits. The rear deck is built up to the south side and rear property lines, while the garage addition is an expansion of the existing dwelling up to the north side and rear property lines. Approval is being sought for the following Variances: 1) Variance to AMC, Subsection 30-4.4(d)(7) because the dwelling extends into the required rear yard setback of twenty feet. 2) Variance to AMC, Subsection 30-4.4(d)(6) because the dwelling extends into the required side yard setback of five feet. 3) Variance to AMC, Subsection 30-5.7(c)(2)(6) because the rear deck is thirty inches in height and extends into the required rear and side yard setback of three feet. 4) Variance to AMC, Subsection 30-5.7(e)(1) because the stairs on the south side yard extends into the



required three foot side yard setback.

AYES – 5 (Lynch absent); NOES – 0; ABSTAIN – 0

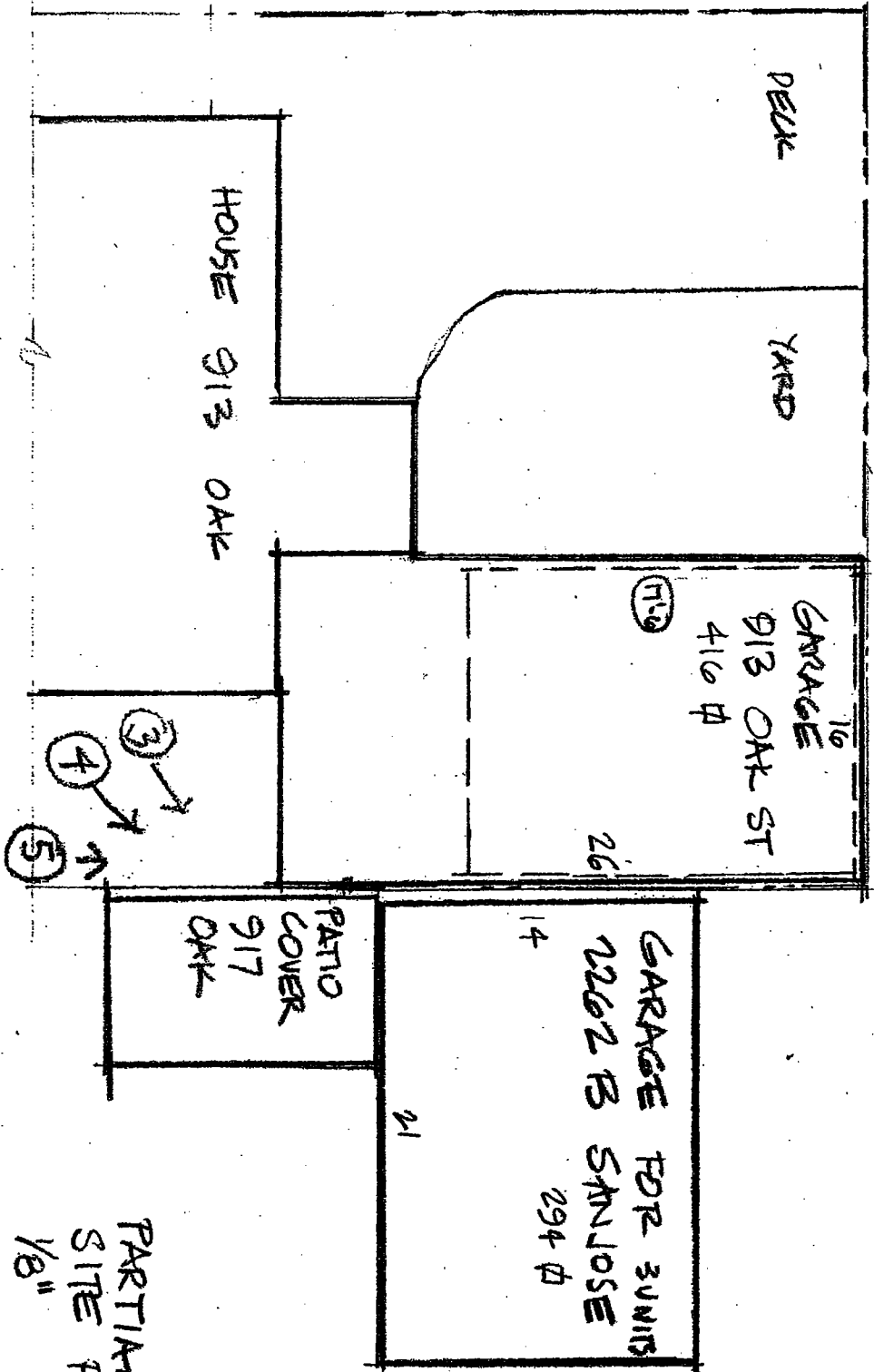
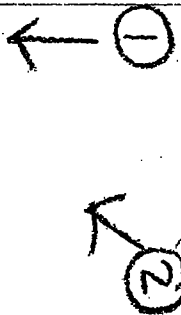
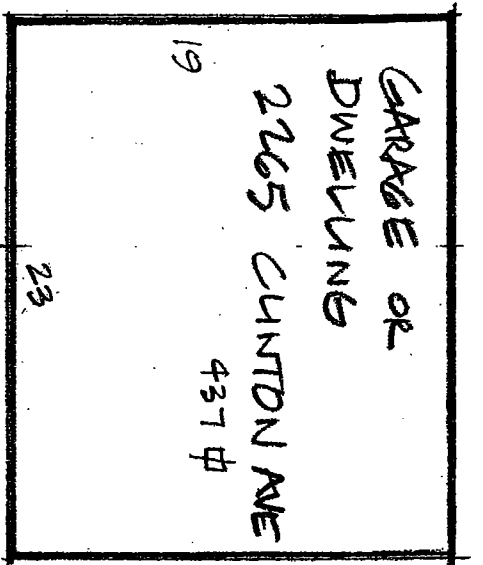


B91-0600

Re: Agenda Item # fa

10/11/04

Attachment 7



PARTIAL  
SITE PLAN  
1/8"

HOGENBOOM RESIDENCE

10-11-04



City of Alameda • California

October 12, 2004

Italo Calpestri, AIA  
1504 Park Street, Ste. #7  
Alameda, CA 94501

Dear Mr. Calpestri:

Accompanying this letter are copies of correspondence letters received by Staff regarding the project located at 913 Oak Street. The correspondence was received after completion and distribution of the staff report and attachments to the Planning Board. This information is available for public review in the Master file located in the Planning and Building Department. The documents were distributed to the Planning Board as separate attachments at the meeting. This information is provided for your records.

If you have any questions, please contact me directly at (510) 747-6875.

Sincerely,

A handwritten signature in black ink, appearing to read "Melodie Bounds".

Melodie Bounds  
Planner I

A handwritten signature in black ink, appearing to be a stylized "JR".  
date: 10/12/04  
Manager

Cc: Italo Calpestri, Applicant

Encl: Late Attachments distributed to Planning Board at meeting on Oct. 11, 2004

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Planning & Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, California 94501-4477  
510.747.6850 • Fax 510.747.6853 • TDD 510.522.7538

Printed on Recycled Paper



October 11, 2004

City of Alameda Planning Board  
2263 Santa Clara Avenue  
Alameda, California 94501

Subject: V04-005,0015,0016,0017—913 Oak Street

Dear Boardmembers:

The Alameda Architectural Preservation Society urges you to accept the staff recommendation and **deny** the subject variances.

We are especially concerned that the proposal would, in effect, allow expansion of a main dwelling up to the side and rear lot lines. This will set a bad precedent that could be used to justify similar variances in the future and result in overbuilding elsewhere. Although we sympathize with the applicants' personal circumstances, these are not relevant to the required variance findings.

We commend staff for their very diligent and well-documented effort to ensure that this project conforms to City standards.

Thank you for the opportunity to comment. Please call me at 523-0411 if you would like to discuss these comments.

Sincerely,

Christopher Buckley, Chair  
Preservation Action Committee

cc: AAPS Board and Preservation Action Committee members

# City of Alameda

## Inter-department Memorandum

**Date:** October 7, 2004

**To:** President Piziali  
Members of the Planning Board

**From:** Melodie Bounds  
Planner I

**Re:** Late communication on Item No. 8A

---

Attached please find communication from Fred and Ursula Hogenboom, dated Oct 7, 2004. Please note Staff responses to specific items below.

**Page No. 1**—correction: reference to “south” property line should be “north” property line, as stated in the Hogenboom’s letter.

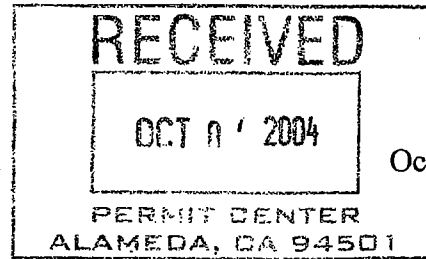
**Page No. 3**—The plans do not specifically call out the height of the deck; therefore, Staff scaled the approximate height from plans drawn by Italo Calpestri.

**Page No. 3**—According to plans the garage measures 15’ from grade (6” from grade to top of foundation and 14’6” from top of foundation to peak of ridge).

**Page No. 6**—The size of residence at 909 Oak Street is based on County records contained in Win2Data. Other information in Figure 1 of the staff report is also based on the same information and includes only main building size.

The remainder of the letter appears to be the Hogenboom’s response to the staff report.

FRED & URSALA HOGENBOOM  
913 OAK STREET  
ALAMEDA, CA 94501



October 7, 2004

Melodie Bounds, Planning & Building Department  
City of Alameda, City Hall  
Alameda, CA 94501  
747-6875 voice 747-6853 fax

Project: Variance and Major Design Review V04-0005, DR04-0013  
913 Oak St.  
Alameda, CA 94501

Dear Melodie,

We have reviewed the staff report for their project and have the following corrections:

Page #1, Item #4

Please correct your reference to the 'south' side property line. Both the old garage and the new garage abut the North side and West rear property lines.

Page #3, Deck

Please correct your comment that the existing deck measures approximately 30" in height from grade to the floor surface. The deck height is between 27 – 28" high and below the height which requires Design Review.

Page #3, Structural expansion of Dwelling

Please correct your comment to show that the height of the new garage is 14'-6" as shown on the drawings. It is not 'approximately 15'.

Page #5, B. Surrounding Land Use

Please correct your comment as follows:

North (front) – single story, single family residence with patio cover at property line AND  
North (rear) – 3-car parking garage for a multi unit property  
South (front) – single story, single family residence AND  
South (rear) – concrete rear yard for a three story building converted to apartments  
East – Oak Street and two story, single family residence  
West - Two story single family residence at the front and another structure at the rear directly behind 913 Oak St. back yard.

We agree with your comment that this is an old and dense neighborhood with small lots, small yards and often, no provision for off-street parking.



Page #5, III Staff Analysis A. Discussion

Garage

At the end of the first paragraph, you refer to a 1-hour, fire rated, 'south' wall. Please check to see if this was intended to be the 'north' wall which is close to the north (side) property line.

Deck

We are very concerned with the theory that we could lower the deck to the twelve inches permitted to encroach into the side and rear yard setbacks. The deck was purposely built even with the back door to accommodate Mrs. Hogenboom's physical problems. She has had three hip replacements and two back surgeries. If the deck is lowered to 12", she will have to negotiate stairs to enjoy her backyard and to reach the spa. The purchase and installation of the spa was also to ease her pain and stiffness.

We are also confused about the Planning Department's procedures regarding our deck. A 30" high deck is exempt from Design Review. We built our deck and the stairs at the sideyard without knowing that additional Planning Department requirements were in place.

Page 6. Deck

Removing three feet of deck along the side and rear property lines would leave such a small deck it would be unusable. To make the deck useful, we would have to fill in the small garden area and be left with only the shady, 3-foot strips along the side and rear yards – suitable for only limited gardening.

900 Block of Oak

Please recalculate the size of the residence 909 Oak.

Should the aluminum patio cover at 917 Oak be included in their lot coverage?

Page 7.

Drainage

The concern about drainage arose because the project was not complete and the gutters/downspout had not been installed. The gutter/downspout are now installed but the project has been stopped while seeking approval by the City. We can address the 917 Oak St. neighbor concern about drainage while completing construction.

Siding

We have installed steel, heavy gauge siding on the west and north property line exterior walls of the garage. The steel siding is painted a neutral color. This has been done intentionally because those two walls will be inaccessible for regular repainting. Because these two walls are on property lines with neighboring structures within 2 feet, using a fire resistant siding prevents the spread of fire in such inaccessible spaces.

We have demonstrated to the Planning Staff that we intend to have the front and visible sides of the garage finished with shingles to match the house. We do not agree that the north side and rear walls should be shingled and then left to deteriorate over time. This is unsightly and dangerous.

Page 8.

Deck

Extraordinary circumstances: Height is to accommodate physical limitations of Mrs.

Hogenboom who has had three hip replacements and two back surgeries.

Deprived of rights: Direct neighbor has the same deck configuration to the south and north and was approved.

Injurious to neighbors:

We do not agree that with your statement that a 30" deck would be more noisy than a 12" deck. A yard is to use for entertainment and enjoyment by homeowners'. Why is the Planning Department suddenly involved in trying to define what is normal noise level of hypothetical backyard activities? The noise level will be the same even if the deck wasn't there. If the Planning Department is worried about noise level, why are they asking that we remove the taller fence separating our rear deck from the parking lot next door?

Page 9. Rear Setback (garage addition)

Deprived of property rights: please review the adjacent neighbor to the north. The garage is abutting the residence as we would like to do.

Injurious to neighbors: We have observed shade created by the current garage roof during daylight hours. The shadow falls on the roofs of the garages at 2262 San Jose and the aluminum patio cover at 919 Oak. The shade never falls on the concrete patio or back porch as claimed by the neighbor. It does not cause injury to these neighbors.

Page 10. Side Setback (garage addition)

Extraordinary circumstances: It is easy to say on paper that a 10' wide x 20' long garage could be built to conform to the Zoning Ordinance. But, we had a 16' wide by 17'4" long garage before. A 10' wide garage is useless as you cannot open the car doors and comfortably exit the car. And, in our case, the driveway is only 9' wide with the house on one side and the aluminum wall of the neighbor's patio cover on the other. There is no room to open car doors in the driveway either. This has been the reality of this older neighborhood for over 50 years.

Injurious to neighbors: Again, we have observed the current garage during the daylight to see where the shadow falls. The shadow only falls on the garage roofs of the San Jose property and the patio cover roof of the house at 919 Oak.

Page 11. Design Review

- A. Lowering deck to no more than 12" would mean building stairs at the rear door of the house to access the back yard and deck. This would be a hardship for Mrs. Hogenboom who has suffered hip and back surgeries.
- B. Setting the deck in 3' from the side and rear property lines would leave inadequate space for the hydro therapeutic spa and create a 3' band of totally unusable space in the back yard.

Response to letter from neighbors at 917 Oak Street

Rain runoff:

The garage has been left unfinished since the Stop Work Order was issued on \_\_\_\_\_. In response to the 917 Oak Street neighbor's complaint about the rain running onto his patio, we installed a gutter which directs the rain onto our property. Completion of the drainage system can proceed when the Stop Work Order is lifted and the driveway can be poured..

The stairs and deck at the south side have not created a drainage problem for the south side neighbors.

General neighbor comments: No work has continued after the Stop Work Order except the addition of the gutter and downspout.

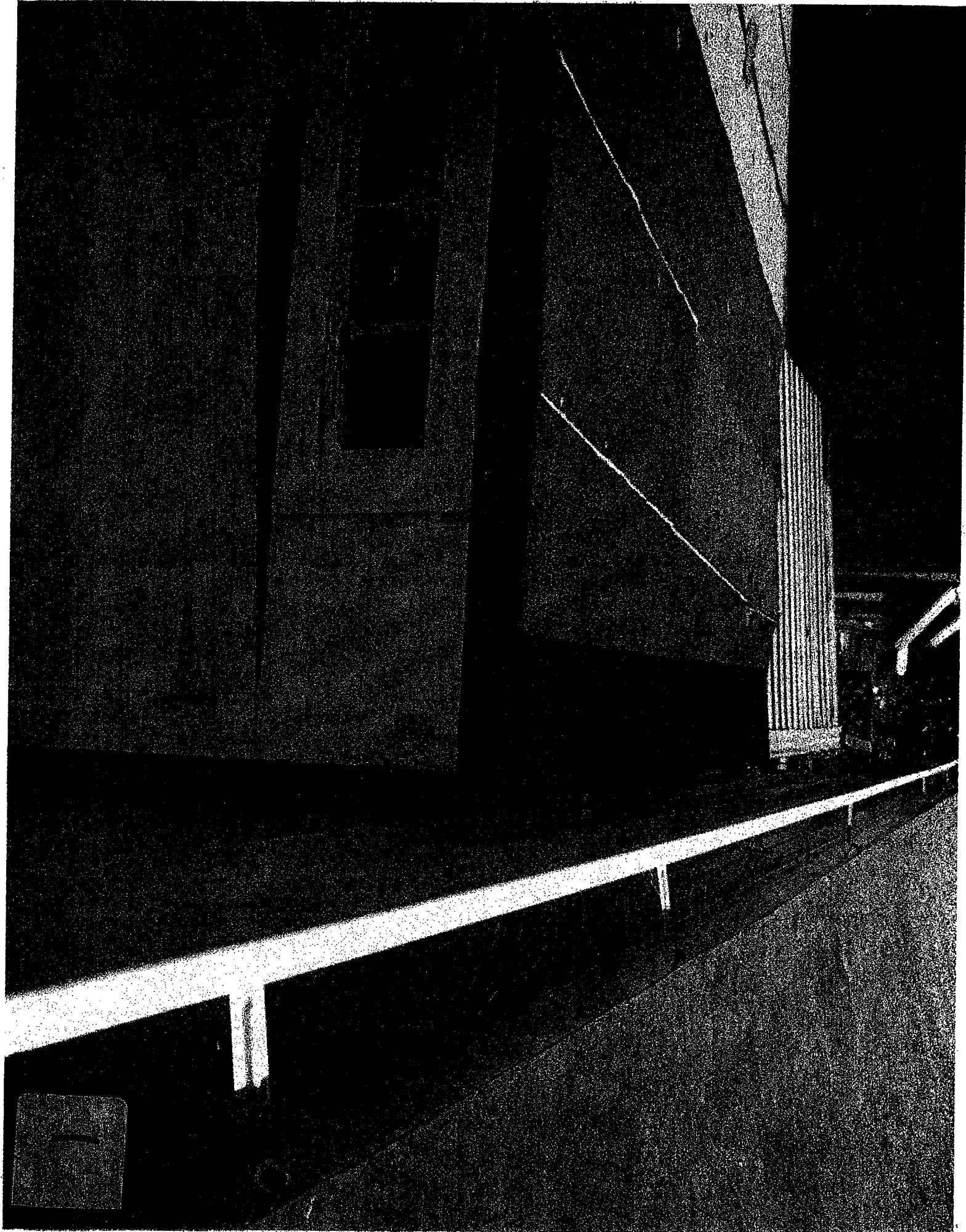
Aerial Photograph: 2002

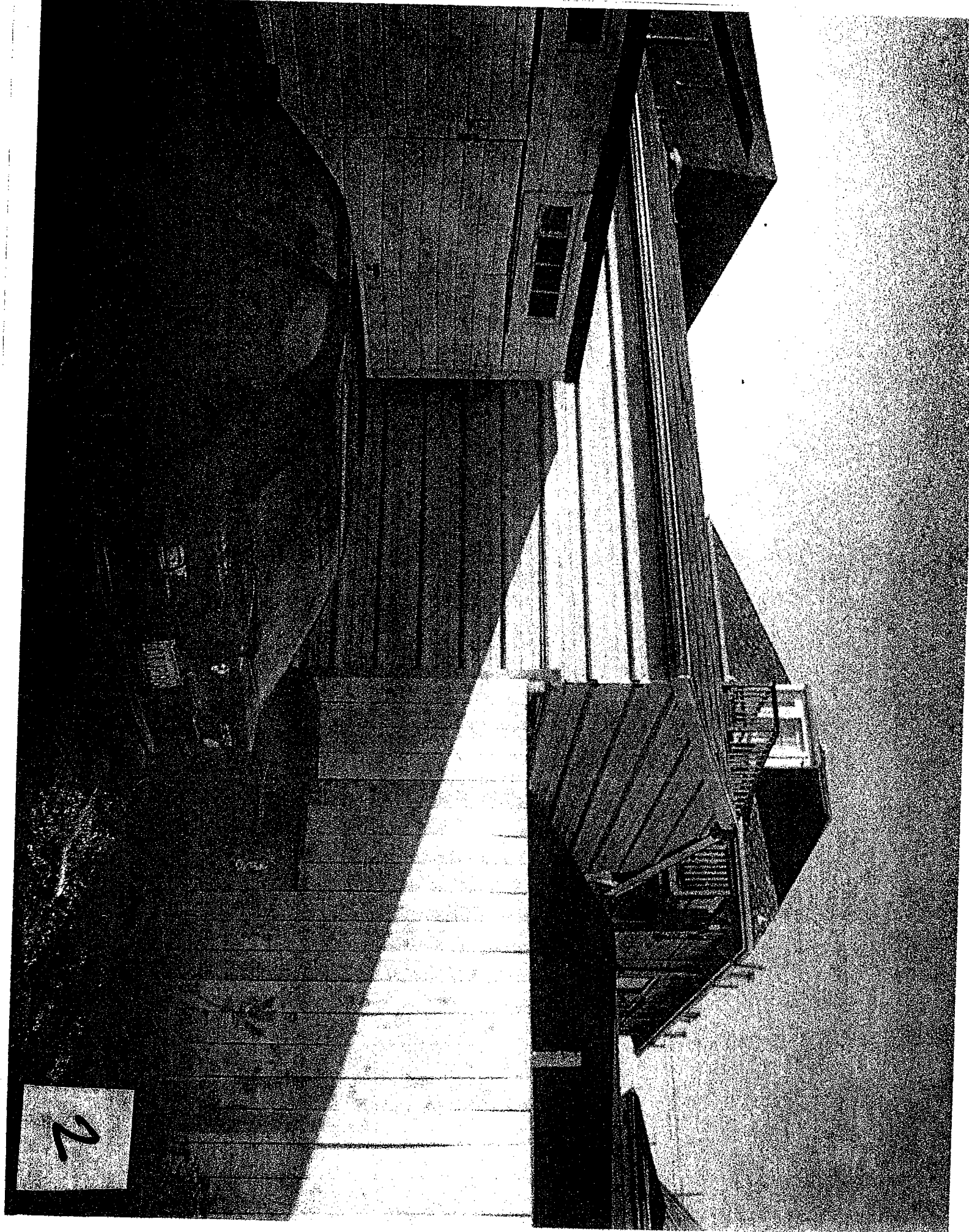
The black and white version of the aerial photo included in the staff report does not clearly illustrate the number of garages and patio covers clustered around the rear yard of 913 Oak. We have asked our Architect to prepare a sketch which translates the aerial information onto paper.

\*\*\*\*\* Steel siding: Not accessible for maintenance, painting, repair. Must be durable. Provides one-hour fire protection.

Please take into consideration the realities of this property and our efforts to improve our property.

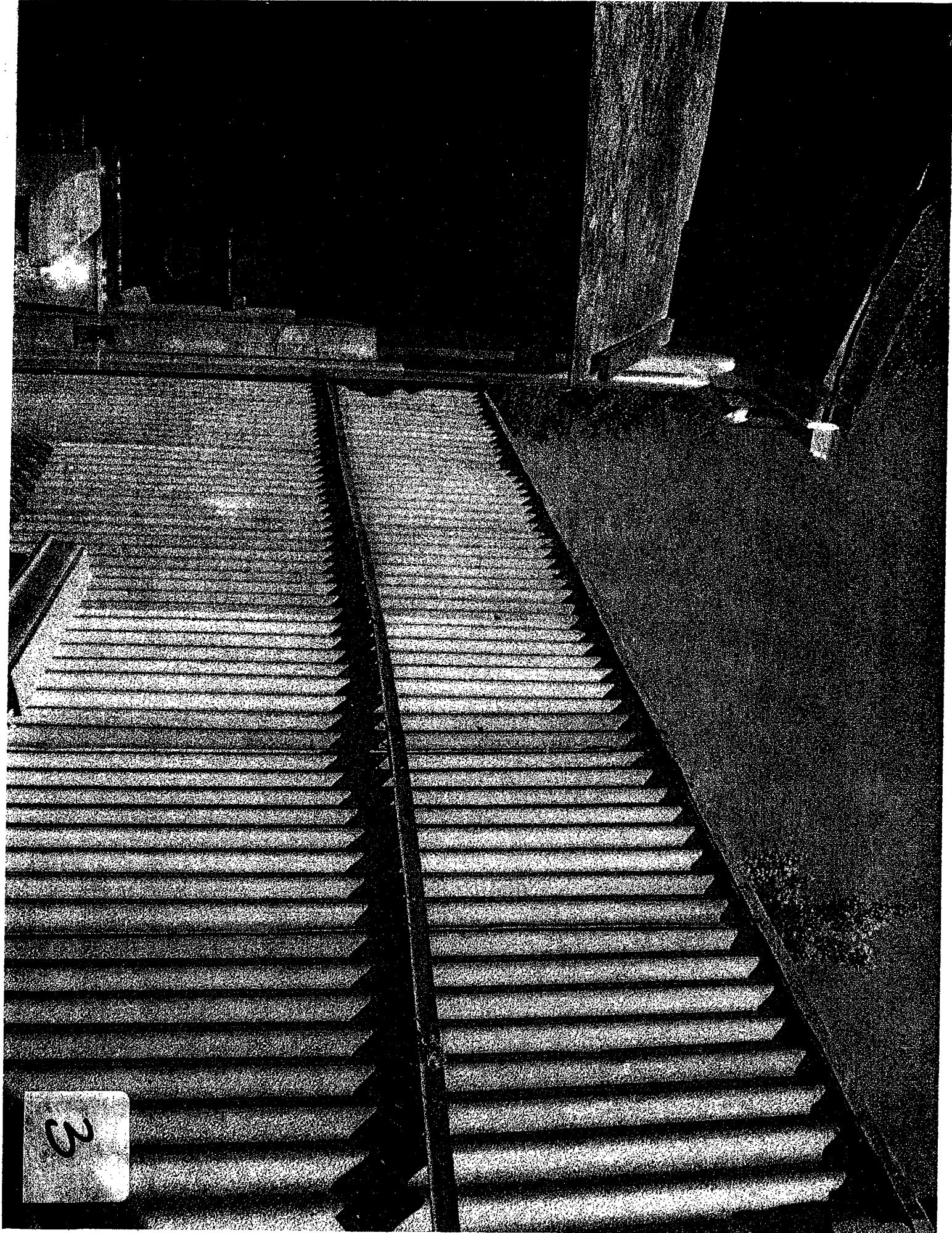
Fred & Ursala Hogenboom





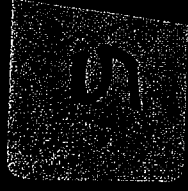
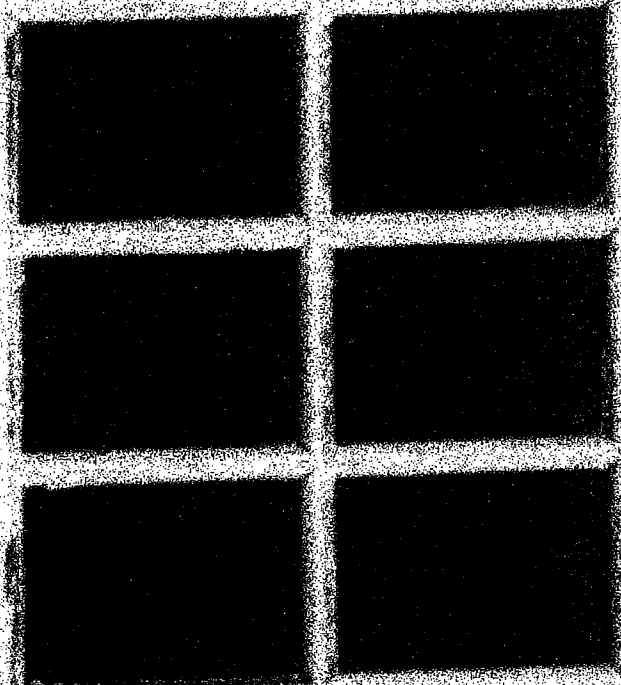
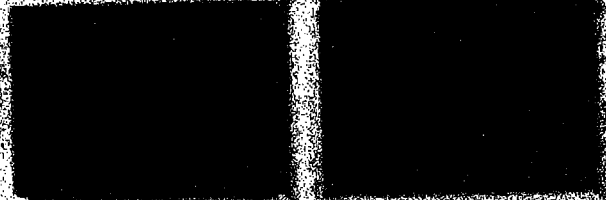
2







A





This is from my home email.

Attached are two pictures. The first was taken soon after the stop work order. The second one was taken the day after I spoke with you last week.

The first one has a roof/felt installed, but no stairs to the deck. The one from last week shows new stairs to the deck(near the house), the roofing material partly removed, and some signs installed.

Barbara

Barbara Kerr

[barbkerr@mindspring.com](mailto:barbkerr@mindspring.com)

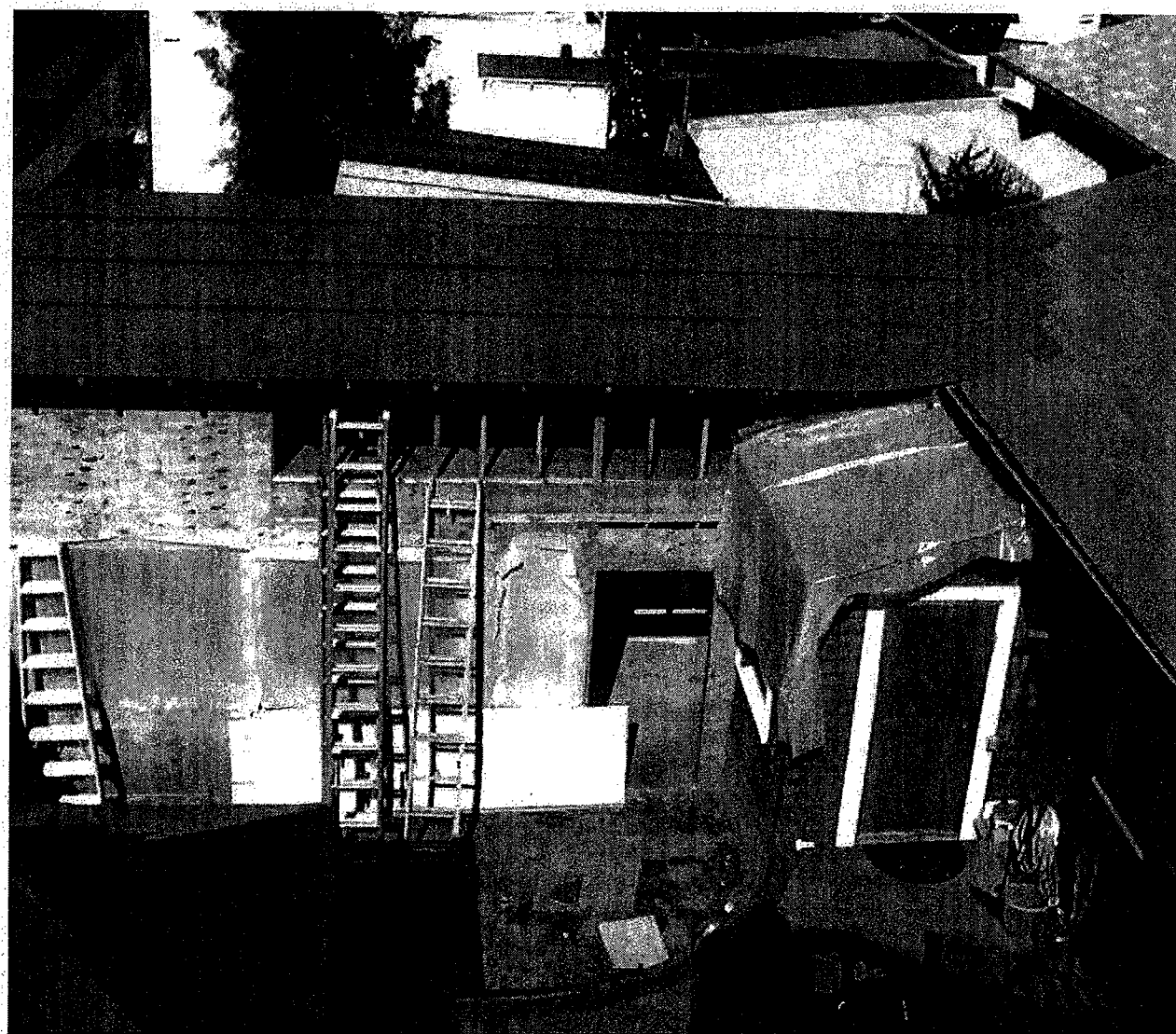
newsletter: <http://barbkerr.home.mindspring.com>

All incoming and outgoing messages are scanned for viruses

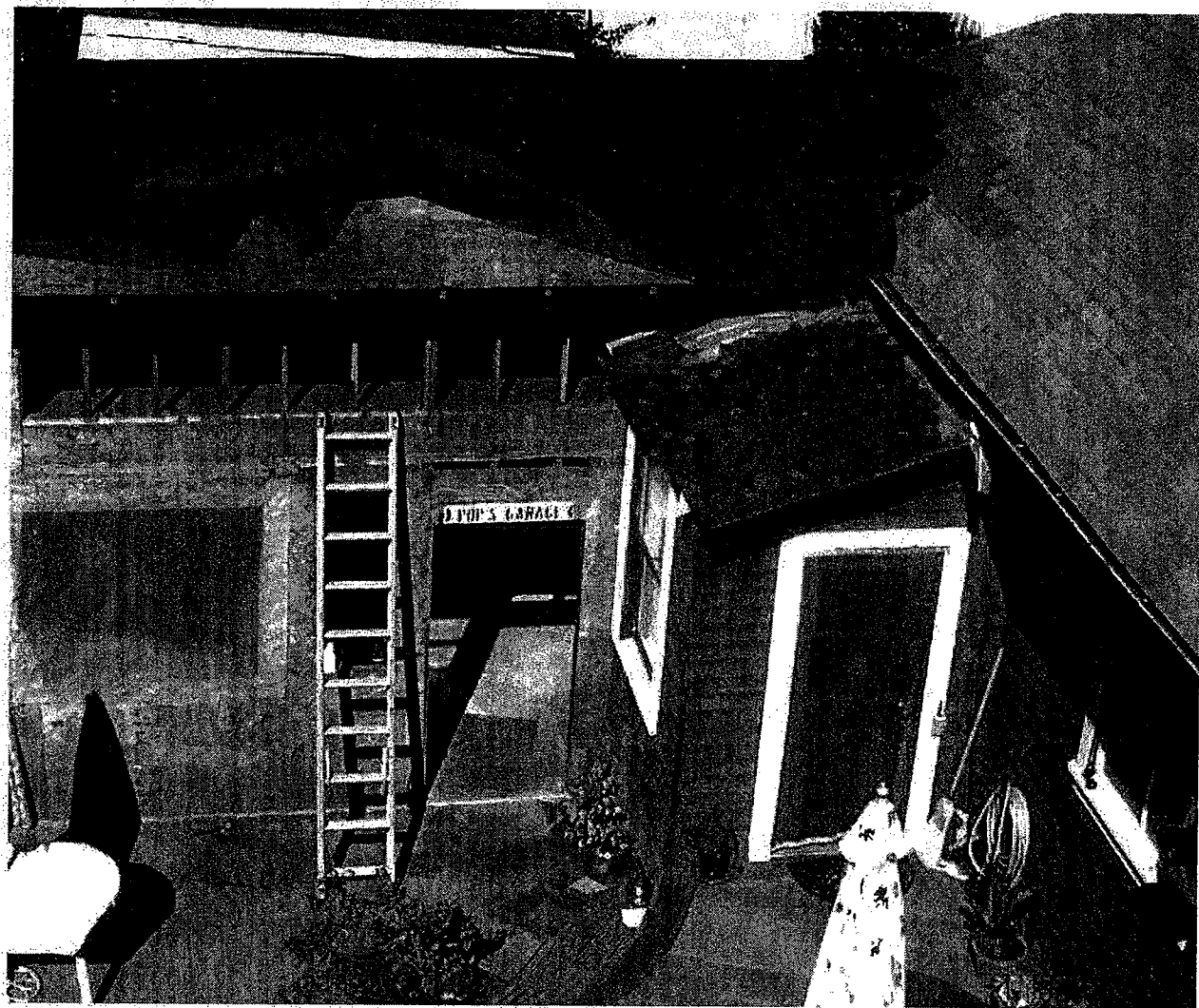
Additional correspondence  
for Planning Board meeting  
of 10/11/04.

RE:

Item # 8-A, 913 Oak St.



Picture 1



Picture 2 -

Eric D. Lee  
Stacie L. Kizziar  
912 Oak St. – A  
Alameda, CA 94501

Planning Board  
City of Alameda  
2263 Santa Clara Avenue, Rm. 190  
Alameda, CA 94501

To Whom It May Concern:

We are writing in regards to the September 27, 2004 Planning Board Public Hearing to consider approval for construction at **913 Oak St.**

As Alameda residents and business owners, and as neighbors of the property at 913 Oak St., we would like to state that we are *in full support* of the Hogenbooms' efforts to improve their property with a new garage structure and deck.

The Hogenbooms – long-time residents and business owners in Alameda themselves – consistently make every effort to maintain their property and it in fact has, in our opinion, the most curb appeal of all properties on the block. The Hogenbooms put a great deal of time, energy, resources, and pride into all of their home improvement projects – and this is clearly evident by taking one look at their property. We are quite confident that the Hogenbooms will bring this same level of care and quality to the building of their new garage structure.

We feel that the proposed improvements at 913 Oak St. will not only improve the Hogenbooms' property value, but that they will benefit the Hogenbooms' neighbors and the City of Alameda as well. **We strongly urge you to approve this project.**

Should you wish to discuss this issue further, please feel free to contact us at the above address, or via phone at 510.522.1667.

We appreciate your consideration,



Eric Lee



Stacie Kizziar

To whom it may concern;

9-25-04

I reside at 2269 clinton ave.

And as a neighbor of 913 Oakstreet, I have a direct view of their property, being made aware of improvements to deck, garage and yard they have installed, I have no objections to these.

In fact this would enhance the homes in this particular area.

sincerely:

Jean Marc Fullsack

To whom it may concern;

10-4-04

As a neighbor of 913 Oak street I have been made aware of the property improvements to the deck garage and yard they have installed

I have no objections to these improvement as in fact they enhance the homes in this area.

Sincerely

I reside at

912 OAK ST APT B - JHJ

JASON HAJEK

Maurice Hajek

To whom it may concern;

10-4-04

As a neighbor of 913 Oak street I have been made aware of the property improvements to the deck garage and yard they have installed

I have no objections to these improvement as in fact they enhance the homes in this area.

Sincerely *David Thompson*

I reside at *2270 San Jose Ave*

To whom it may concern;

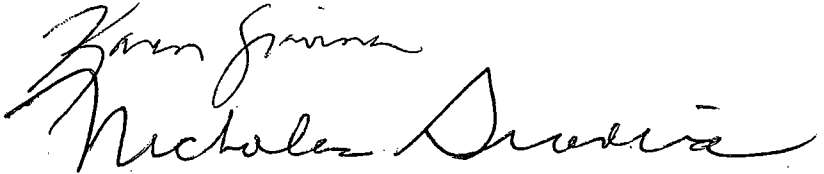
9-25-04

I reside at 914 Oakstreet.

And as a neighbor of 913 Oakstreet, I have a direct view of their property, being made aware of improvements to deck, garage and yard they have installed, I have no objections to these.

In fact this would enhance the homes in this particular area.

sincerely:

Two handwritten signatures are present. The first signature, "Karen Grinn", is written in a cursive script. The second signature, "Nicholas Duvall", is also in cursive and is written below the first signature.



To whom it may concern;

9-25-04

I reside at 2267 Clinton Ave.

And as a neighbor of 913 Oakstreet, I have a direct view of their property, being made aware of improvements to deck, garage and yard they have installed, I have no objections to these.

In fact this would enhance the homes in this particular area.

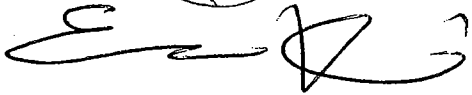
sincerely:



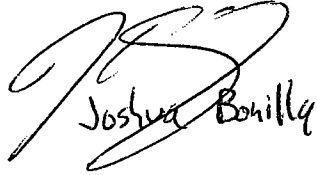
unit A



unit D



UNIT F

  
Joshua Bonilla

unit H

To whom it may concern;

10-4-04

As a neighbor of 913 Oak street I have been made aware of the property improvements to the deck garage and yard they have installed

I have no objections to these improvement as in fact they enhance the homes in this area.

Sincerely

Nancy Tuttle  
916 Oak Street  
Alameda, CA  
522-3113

To whom it may concern;

10-4-04

As a neighbor of 913 Oak street I have been made aware of the property improvements to the deck garage and yard they have installed

I have no objections to these improvement as in fact they enhance the homes in this area.

Sincerely

Michael H. *Hader*

510.521-2836

2302 San Jose Ave #13

To whom it may concern;

10-4-04

As a neighbor of 913 Oak street I have been made aware of the property improvements to the deck garage and yard they have installed

I have no objections to these improvement as in fact they enhance the homes in this area.

Sincerely

Elizabeth Marshall  
2258 San Jose Ave.  
Alameda CA 94501  
510 769-1368

To whom it may concern;

9-25-04

I reside at 912 Oakstreet.

And as a neighbor of 913 Oakstreet, I have a direct view of their property, being made aware of improvements to deck, garage and yard they have installed, I have no objections to these.

In fact this would enhance the homes in this particular area.

sincerely:

Stacie L. Krizan  
BLL

FRED & URSULA HOGENBOOM  
913 OAK STREET  
ALAMEDA, CA 94501  
865-3353 (h) 521-7215 (w) 521-6803 (fax)

September 23, 2004

Melodie Bounds, Planning & Building Department  
City of Alameda, City Hall  
Alameda, CA 94501  
747-6875 voice 747-6853 fax

RECEIVED

SEP 23 2004

PLANNING DEPARTMENT  
CITY OF ALAMEDA

Project: Variance and Major Design Review V04-0005, DR04-0013  
913 Oak St.  
Alameda, CA 94501

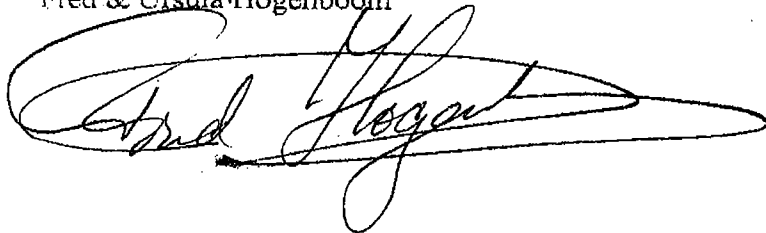
Thank you for talking with us yesterday. As discussed, we had not seen the letters from our neighbor expressing concern about drainage from the garage roof. We need time to read and respond to the material.

Additionally, Ursula has been hospitalized for several days. We cannot focus our attention on the application in time for the meeting Monday, September 27. Based on your recommendation that we review our neighbors concerns prior to the hearing, we are requesting a continuance of our public hearing by the Planning Board.

We appreciate your notification of the Planning Board members of this request.

Sincerely,

Fred & Ursula Hogenboom



Correspondence distributed at the  
Planning Board meeting of  
9/27/04, regarding  
Agenda Item 8-A

Planning Board Members,

This letter is regarding the project under consideration at 913 Oak St.. I am the homeowner directly across the street from this property. I find no reason to oppose the improvements under construction at the Hogenboom property. The garage they are planning to build will replace an old falling down eyesore. The new garage will do nothing but add beauty to their home, and value to everyone else's property in the neighborhood. As improvements are made to each house, we all win. There are many houses in this neighbor that are undergoing renovations. I applaud each homeowner, including the Hogenbooms, for attempting to make Alameda into an even more attractive community. In addition, I can't see how the backyard deck could impact any adjacent neighbors, and it gives the Hogenbooms some measure of privacy and peacefulness in a densely populated area.

Thank You,

Karen Gravina

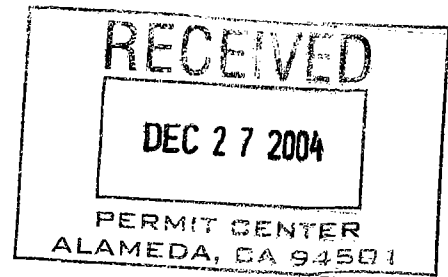
914 Oak St.

Alameda, CA 94501

SEP 23 2004

917 Oak Street  
Alameda, CA 94501

December 27, 2004



TO: Building Services, Code Compliance, Room 190  
City Hall, 2263 Santa Clara Ave., Alameda, CA 94501

FROM: Raymond S. Pacovsky  
Raymond A. Pacovsky

**RE: Appeal of Variances at 913 Oak Street denied by City Planning Board**

Our family lives at 917 Oak Street, Alameda, our permanent address for the last 47 years. Our home is next to 913 Oak Street, where beginning in 2002 and continuing into 2003, there has been the construction of new fences, a new back porch, a new back deck, and a new garage in the **absence of city permits or variances.**

The owner of 913 Oak Street, Fred and Ursula Hogenboom, through their applicant Italo Calpestri requested a major design review and four variances **retroactively** from the city Planning and Design Board to try and legalize the extensive construction that was performed. In the process Mr. Calpestri and Mr. Hogenboom misrepresented and falsified a number of points.

First, if records of the Planning Board on October 11, 2004, are kept, you will see that Mr. Hogenboom "apologizes" for the fact that his garage is "one or two inches" over the property line. This "one or two inches" is based on a schematic done by his architect or Mr. Calpestri (**NOT** an official survey). What is interesting about this diagram is that the property line at the front of the property does not meet up with the property line at the back of the property. This diagram shows that the chain link fence is on our side of the property line at the front, but is part of his garage at the back of the diagram. Based on the discrepancy, the garage is actually **4 to 6 inches** on our property.

Second, this structure is significantly larger in terms of the "footprint" (square footage) and much larger in terms of the volume (two stories instead of one story). Mr. Hogenboom stated that this will allow him to "turn his car around in the garage." The earlier garage, which was removed without approval of the city, would not have allowed anyone to turn a car around. Will he drive his car up to the second floor? It is clear from the hole that was cut in the roof for a stove or shower vent and the fact that Mr. Hogenboom is fighting to maintain the garage as an attached structure, that they have plans to turn the second floor into a "mother-in-law" unit. Our point of view is that the new garage should not have a larger footprint nor a larger volume than the garage that it is replacing.

Third, the roof of the garage is now contiguous with the roof of the house. As such rain water from the house and steeply peaked roof overflows the catchment system and floods our backyard. Until 2003 and again this year, our patio and cellar had **never flooded** in the 48 years that we

Re: Agenda Item #5-B  
1-4-05



have lived in this house. The down spout of the garage also dumps the run-off water right on the property line, where the water released is **undercutting** the foundation of our patio. Mr. Hogenboom stated at the Planning Board meeting on October 11 that he intends to pave the driveway when it is finished. This will only make matters worse for our property at 917 Oak Street. Currently the run off is divided between the 913 and 917 properties. When the structure is paved the runoff will all go onto 917 Oak Street causing the flooding to be much worse than it is at present.

Fourth, to build this garage a 10 foot section of a chain-link fence that runs on the property line (or perhaps fully on our side of the property line as my father contends) was removed without our permission. After the meeting on October 11, 2004, Mr. Hogenboom has placed a large quantities of bricks against our chain-link fence which has caused the fence to buckle and warp. This photograph was taken in late October; the damage is worse now.) We feel that this was done in retaliation for our comments regarding his illegal building activities that continued even after the city "red tagged" the property in December, 2003. When the fence topples over, we imagine that he will try to erect a new fence **at least** 4 inches on our side of the property line.

Fifth, this significantly larger structure dramatically cuts the amount of sunlight that comes into our backyard, destroys the nice view that we once had of a number of large pines and redwoods in the backyards of San Jose and Clinton street neighbors, and if there is a "mother-in-law" unit placed above the "garage" then we also lose **our privacy**. This terribly large structure peers into our kitchen, our back bedroom and over shadows the back porch.

Sixth, there has already been a number of "renovation" projects in this neighborhood that were done without permits (913 Oak St., 914 Oak St., 2264 San Jose Ave.) Granting these variances for the Hogenbooms will **encourage and reward** their illegal behavior. The Hogenboom's knew that they would be constructing illegally. They constructed not one, but two fences so that people from the street would not see what was being done until the roof and aluminum siding was put on the garage. One of the "fences" were constructed from the old doors of the garage, with windows that were then blacked out and plywood placed behind to prevent observing the construction that was being done on their back porch, deck, hot tub and garage. **If the city council grants this appeal then there will no respect for the regulations and laws regarding renovations in the city of Alameda.**

In summary, **the appeal** of the no vote by the Planning Board for the major design review (DR04-0013), Variance (V04-0015) to AMC, Subsection 30-4.4 (d)(6), Variance (V04-0017) to AMC, Subsection 30-5.7 (e)(1), Variance (V04-0005), to AMC, Subsection 30-4.4 (d)(7), and Variance (V04-0017) to AMC, Subsection 30-5.7 (e)(1) **should not be granted.**

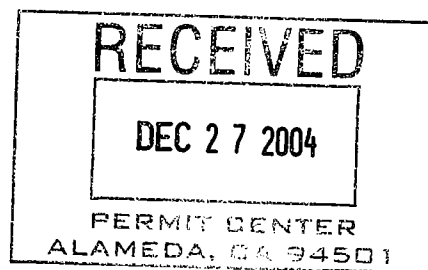
If I can be of further assistance to you, please do not hesitate to contact any of us at 510-522-2280 or [pacovskyr@alamedanet.net](mailto:pacovskyr@alamedanet.net) Thank you for your time and attention.

cc/ Building Services, Code Compliance

917 Oak Street  
Alameda, CA 94501

October 22, 2004

Planning and Building Department  
2263 Santa Clara Avenue, Room 190  
Alameda, CA 94501  
Phone: 510.747.6888  
Fax: 510.747.6853



Dear Sirs:

My name is Raymond A. Pacovsky, owner of 917 Oak Street. On October 11, 2004 I attended the meeting of the Planning and Building Department, where I spoke regarding the activities of my neighbor, Mr. Fred Hogenboom at 913 Oak Street. I presented a list of construction activities that occurred after the property was "red tagged" in December, 2003. I wish to put these violations which I personally observed on paper. These renovations and the construction work that was done at 913 Oak Street was done without a Building Permit. I would like to bring to the attention of your Department the following unauthorized alterations that were done at the property:

1. January 12 or 13, 2004. Some work was done on the structure of the garage. There was sawing done with power tools and hammering that was done by hand. It was clear that portions of the walls were being completed. I asked the men who were working on the house if they knew that the house had been red tagged. They indicated that they were "just cleaning up and removing left over wood."
2. On or about January 26, 2004. Additional work was done on the structure. On this occasion I spoke to some of the workers, who had been speaking Spanish. I was certain that they understood what I had said, even though they did not reply. I told them that "the property had been red tagged and it was against the law for them to do any work." They stopped, got into their truck, and left. They must have been watching the house. After my wife left in our car, these two men returned (thinking that no one was home any longer) and started working on the garage. When I showed up at the fence on the boundary line, they both left in a hurry.
3. On February 17 or 18, 2004 (After President's Day, February 16) It had been raining hard during January and early February. It is likely that there had been some problems with water infiltration and drainage. Previously the Hogenboom's had the roof covered with a black tarp and later with black tar paper. (This was clearly shown last night in the photo that was shown by the neighbor on Clinton Avenue.) Workmen came and placed roofing material on the house, placed some pieces of plywood under the eaves (to direct water away from the structure) and attached a down spout onto the roof of the house at 913 Oak Street.

4. On March 8, 2004, a rain gutter with down spouts was attached to the roof of the garage at 913 Oak Street. Again the workers were warned to cease and desist, but they continued with the down spout work until they finished the job. At the time I was interested in the timing of the work. On March 3, 2004, I sent a letter to the Planning Department at Alameda City Hall complaining about the water cascading off of the house at 913 Oak St., then onto the garage and finally onto my patio which flooded for the first time in 47 years. A coincidence? Not likely.

5. On April 19, 2004 (my birthday) workmen arrived and installed lights and an electrical system in the neighbor's garage. During this time, one of the workers climbed onto the roof of the garage and cut in it a hole for a vent. While the worker was on the roof he either dropped a tool or stepped on the garage on the San Jose property and put a hole in the roof of this neighbor's garage. This hole is clearly visible in Photograph Number 2 in my September 16, 2004 letter to the Planning and Building Department. Within 10 days of this event I was walking along the side of my house looking at the fence (which was being warped by the bricks that Fred had placed up against the chain link fence. At this time my wife was in the house (the windows were open), and Ursula was in her house, with the windows open. While I was walking I and my wife clearly heard Ursula say, "Ya, take a good look, asshole."


6. On or about May 10, 2004, additional aluminum siding was installed. It was not clear, but this material may have been placed on the neighbor's garage and not the garage at 913 Oak Street. The workmen were told to cease and desist, and I called the Planning Department to make a report of activity at 913 Oak Street.

7. On October 8, 2004, the Friday before the Planning Board meeting on October 11, there was work done on the roof. The roofing material that had been installed back in February was removed and new roofing material, of a superior quality, was put in its place. There was some additional work performed on the walls. Again I called the Planning Department and made a report of the activity at 913 Oak Street.

If you wish to speak more about this, please do not hesitate to contact me at 510-522-2280.

Thank you for your time and attention.

Sincerely,

  
Raymond A. Pacovsky

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

UPHOLDING THE PLANNING BOARD'S APPROVAL OF MAJOR DESIGN REVIEW DR04-0013 AND VARIANCES, V04-0005, V04-0015, V04-0016, V04-0017 TO DENY AN ATTACHED GARAGE ADDITION AND REAR DECK AT 913 OAK STREET.

WHEREAS, an application was made on February 25, 2004, by Italo Calpestri for Property Owners, Fred and Ursula Hoggenboom, for Major Design Review and Variance approval to permit the construction of a rear deck and garage addition that was completed without City permits. The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south (left side) and west (rear) property lines. The garage addition is an expansion of the existing single-family dwelling up to the north (right side) and west (rear) property lines. The Applicant is requesting four (4) Variances to permit the construction of the work completed without permit including: a Variance to AMC Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height; a Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings; a Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards; a Variance to AMC Subsection 30-4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards; and

WHEREAS, the application was accepted as complete on July 29, 2004; and

WHEREAS, the subject property is designated Medium-Density Residential on the General Plan Diagram; and

WHEREAS, the subject property is located in an R-4, Neighborhood Residential Zoning District; and

WHEREAS, additions to residential structures that are greater than eighty (80) square feet requires Major Design Review pursuant to AMC Subsection 30-37.2 (a); and

WHEREAS, the Planning Board of the City of Alameda held a public hearing on this application on September 27, 2004 and examined pertinent documents and denied the application; and

WHEREAS, on December 7, 2004, the City Council of the City of Alameda held a public hearing for the appeal of the Planning Board's prior denial and examined pertinent documents as well as the record of the Planning Board hearing; and

WHEREAS, the City Council considered responses to the bases of the appellants' appeal and finds that there are no merits in the bases of appeal; and

WHEREAS, the City Council makes the following findings with respect to the appellant's bases of appeal and relative to the Planned Development Amendment application:

Rear Setback (garage addition) V04-0005:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The City Council cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The City Council cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The City Council cannot make this finding. The project extends the main dwelling up to the side and rear property lines and blocks the views and sunlight of the adjacent and abutting properties, which is potentially injurious to these surrounding residential properties.

Side Setback (garage addition) V04-0015:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The City Council cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the lot is large enough in size and is configured in such a way that a single car, one-story, detached garage could be designed to be fully compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The City Council cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The City Council cannot make this finding. The project extends the main dwelling up to the side and rear property lines and blocks the views and sunlight of the adjacent and abutting properties, which is potentially injurious to these surrounding residential properties.

Side & Rear Setback (deck) V04-0016:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The City Council cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. In addition, the deck could be redesigned to be fully compliant with AMC standards, simply by lowering the footings so that the deck measures no more than twelve inches in height from grade to the surface of the deck or by removing a three foot portion the deck on the south side and rear property lines to achieve the required setbacks.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The City Council cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with similar or more constricting size limitations.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The City Council cannot make this finding. Decks offer opportunities for outdoor congregation and entertainment. The proposal involves retaining the already constructed nonconforming deck that is thirty inches in height and built up to the side and rear property line. A deck of this height and location has the potential to create increased noise levels and privacy concerns for adjacent and abutting residential properties, and the potential increase in activity may be injurious to the surrounding properties.

Side Setback (stairs and landing) V04-0017:

1. **There are extraordinary circumstances applying to the property relating to the physical constraints of the parcel, such as size, shape, topography, location or surroundings.**

The City Council cannot make this finding. The lot is nonconforming in width, however, this does not represent an extraordinary circumstance of physical constraint since the lot size (4,000 square feet) and the configuration is not unique in this neighborhood or Alameda in general. Additionally, the stair and landing is needed to provide access to the nonconforming rear deck from the south side yard; however, the stair and landing would be unnecessary if the deck was lowered to be compliant with AMC standards.

2. **Because of extraordinary circumstances, the literal enforcement of the Zoning Ordinance standards would result in practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district.**

The City Council cannot make this finding. There is no practical difficulty or unnecessary hardship such as to deprive the applicants of a substantial property right possessed by other owners of the property in the same district because all of the other residences in this neighborhood are held to the same zoning standards and maintain lots with the same size limitations and advantages. The property owner has created a self imposed hardship by constructing a nonconforming deck that extends up to the side property line, measures thirty inches in height and requires a stair with landing for access.

3. **The granting of the Variance, under the circumstances of the particular case, will not be detrimental to the public welfare or injurious to persons or property in the vicinity.**

The City Council cannot make this finding. The proposal to retain the already constructed stair and landing within the side and rear property lines has the potential to create increased traffic and noise along the south side yard, which may be injurious to the adjacent and abutting residential properties located to the south.

WHEREAS, the City Council is unable to make the findings with respect to the appellant's bases of appeal and relative to the Major Design Review application because the garage addition and rear deck have the potential to cause adverse effects to surrounding properties under the Variance findings; and therefore, the project proposal cannot be found to be compatible and harmonious with the design and use of surrounding properties.

NOW, THEREFORE BE IT RESOLVED that the City Council finds that the project is Categorically Exempt from the California Environmental Quality Act, under Section 15301 of the CEQA Guidelines - Existing Facilities; and

NOW THEREFORE BE IT RESOLVED that the City Council denies the appeal and upholds the Planning Board's denial of Major Design Review DR04-0013 and Variances V04-0005, V04-0015, V04-0016, V04-0017 for the construction of the rear deck, unenclosed stair and landing and structural expansion of the main dwelling into the required side and rear yard setback

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision or final action on any appeals plus extensions authorized by California Code of Civil Procedure Section 1094.6.

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I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the \_\_\_\_ day of \_\_\_\_\_, 2005 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda



## **CITY OF ALAMEDA MEMORANDUM**

DATE: December 30, 2004

TO: Honorable Mayor and Members  
of the City Council

FROM: James M. Flint  
City Manager

RE: Assistance Provided to Tenants at Harbor Island Apartments

### Background:

On July 22, 2004, residents of Harbor Island Apartments, the largest apartment complex in Alameda, received 90 day notices to move because the complex owners had decided to completely renovate all units. The complex consists of 615 apartments, of which approximately 150 were rented to Housing Choice Voucher holders under the Section 8 program. Although a few Section 8 tenants had leases to January and February 2005, the vast majority were told they would need to find alternative housing and move within 90 days. Eventually, Harbor Island management agreed to extend the deadline to mid-November or even later in a few cases.

In response to an article about Harbor Island Apartments tenants' plight in being forced to move over the holidays, Council Member Matarrese asked staff to provide the Council with a report on what assistance the Housing Authority is giving to the remaining Section 8 tenants at Harbor Island Apartments. On December 21, 2004, the City Council directed the City Manager to provide information regarding the status of what can be done for the remaining tenants at Harbor Island Apartments and how the City could serve as a resource in providing relocation assistance to the tenants who are still there.

### Discussion:

Housing Authority staff has worked closely with Section 8 Harbor Island tenants to recertify them so they could move and to help them find new units. For tenants that needed extra help, Housing Specialists contacted rental property owners directly to facilitate their moves. The Authority maintains a list of available units that will accept Housing Choice Vouchers, including several new units developed by the City through the Substantial Rehabilitation Program.

During the period of July through December, the Alameda housing market has had many vacancies. In the July 30, 2004, Off-Agenda Report on this matter, it was noted that the Housing Authority had a list of 62 units that were available for rent for tenants

with Section 8 Vouchers. Over the past several months, the number of vacant units available for rent by Section 8 Voucher holders has been consistent. At the present time, the Housing Authority's list contains 61 available units, including 18 one bedroom units, 25 two bedroom units, and 18 three bedroom units.

As of December 22, only ten Housing Choice Voucher families remain at Harbor Island Apartments. Of these ten, all but one have contacted the Housing Authority to be recertified so they can move to another unit. Four have leases to January and February. One tenant has not contacted the Housing Authority, nor has she responded to our numerous attempts to reach her. It is her obligation under the Housing Choice Voucher program to provide us with a copy of any eviction notice she receives. She has not provided us with such notice.

Recent coverage on KRON Channel 4 news focused on a disabled tenant who is confined to a wheel chair, stating that this tenant was unable to locate a unit. In fact, about two months ago Housing Authority staff referred her to a local non-profit agency that attempted to work with her; however, she resisted their recommendations for appropriate housing. Also, her AHA Housing Specialist has put forth much effort to help her locate alternative housing. A unit has now been found for her, and we expect to receive her Request for Tenancy Approval (RFTA) within a day or two.

The RFTA is the paperwork required from tenants that shows they have located a unit, and the landlord is willing to accept their Section 8 Voucher. From there, the Housing Authority schedules an inspection of the unit and prepares the necessary contract for the landlord so the housing subsidy for the new unit can begin. This process can take anywhere from a couple of days to a month, depending upon the condition of the unit and the cooperation of the tenant and landlord.

For the tenants who will remain at Harbor Island for the next several weeks, until their leases expire, the Housing Authority will continue to administer and enforce the Section 8 Housing Assistance Payment Contract. The unit of one Section 8 tenant, whose lease expires on February 3, 2005, failed a Housing Quality Standards Inspection on November 17, 2004. The unit was inspected twice more, but still failed, as all of the required repairs were not made. On December 17, 2004, Housing Assistance Payments were abated for this unit. The tenant has since found another unit to move to and will most likely leave Harbor Island Apartments within the next few weeks.

As of December 22, 2004, there were 41 occupied housing units at Harbor Island Apartments; of those, 31 were occupied by non-Section 8 tenants. Four of these units are occupied by Harbor Island employees, and 22 households are under existing unexpired leases. Of the remaining 15, there are four unlawful detainer actions pending for non-payment of rent. There are 11 households that have over-stayed their tenure without arrangements with Harbor Island management. No unlawful detainers have been filed to date on these 11 households. We estimate that five of these 11 households are on the Section 8 program and are in the process of moving. Housing Authority staff will continue to assist these families with their moves.

Housing Authority staff has contacted Eden Information and Referral (EDEN), a local non-profit hired by the Fifteen Group to assist tenants in their search, to see what assistance they are providing these tenants. Eden has a staff person stationed at Harbor Island Apartments to assist individuals on a one to one basis. The Eden worker interviews the Harbor Island tenants to find out all of their needs, not only housing, and refers them to the appropriate service providers. As of December 23, Eden has seen 131 Harbor Island tenants and has made 647 housing referrals and 243 service referrals. The non-housing referrals are such things as help in paying back rent, utilities, deposits, food, clothing and furniture.

The City contracts with the Red Cross in Alameda to provide case management for homeless prevention. Through this contract and other grants, the Red Cross is paying for U-haul trailers to help tenants with their move. They are also paying for a month of storage space at local storage facilities. They are helping tenants with utility payments and serving them through their food program as well. Red Cross is making special exceptions for Harbor Island tenants so they can participate in some of the agency's other programs. East Bay Legal Aid is representing several tenants in defense of unlawful retainer actions.

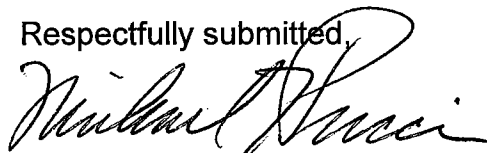
While many Harbor Island tenants have moved to units in Alameda, some have moved to other jurisdictions, especially Oakland and Alameda County. In some cases, these tenants were unable to find units in Alameda because they had poor credit or negative rental histories. Others simply wished to relocate. In most cases, Harbor Island tenants with good references and reasonable credit histories have been able to remain in Alameda if they so desired.

To underscore the current need in Alameda, the City may want to send a letter, signed by the Mayor, to rental property owners explaining the situation at Harbor Island Apartments and urging the owners to give every consideration to renting their units to qualified applicants from Harbor Island Apartments. Due to the fact that there are numerous vacancies throughout Alameda, a majority of Harbor Island tenants will likely be able to find alternative housing.

Recommendation:

This report is for information only.

Respectfully submitted,



Michael T. Pucci  
Executive Director

MTP:KW:CJ